



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 3rd December, 2004:—

### BILL No. 73 OF 2004

*A Bill further to amend the Regional Rural Banks Act, 1976.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Regional Rural Banks (Amendment) Act, 2004. Short title and commencement.  
(2) It shall come into force at once.

2. In section 2 of the Regional Rural Banks Act, 1976, (hereinafter referred to as the principal Act),— Amendment of section 2.

(i) for clause (d), the following clause shall be substituted, namely:—

‘(d) “notified area” means a State or a Union Territory or a group of States and/or a group of Union Territories or such limits, specified under sub-section (1) of section 3, within which a Regional Rural Bank shall operate.’

(ii) for clause (e), the following clause shall be substituted, namely:—

‘(e) “prescribed” means prescribed by rules made under this Act or by any specific direction issued by the Central Government or any other competent authority.’

(iii) for clause (g), the following clause shall be substituted, namely:—

‘(g) “Sponsor Bank” in relation to a Regional Rural Bank means the “National Bank” or any such nationalised commercial bank as may be determined by the Central Government from time to time;’

(iv) for clause (h), the following clause shall be substituted, namely:—

‘(h) “State Government” means,—

(i) in relation to a regional Rural Bank established in a Union Territory or group of Union Territories, the Central Government;

(ii) in relation to a Regional Rural Bank established in a State or group of States, the Government of the State or the group of States concerned.’

Substitution of new section for section 3.

Establishment and incorporation of Regional Rural Banks.

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

**“3. (1) The Central Government may, if considered necessary and expedient in the interest of the people of a particular area or State or Union Territory or a group of States, by notification in the Official Gazette, establish in the concerned area or State or Union Territory or a group of States one Regional Rural Bank with such a name as may be specified in the notification, or may by the said or any subsequent notification, specify the limits within which the Regional Rural Bank shall operate.”.**

**(2) Every Regional Rural Bank shall be a body corporate with perpetual succession and a common seal with power, subject to the provisions of the Act, to acquire, hold and dispose of property and to contract and may sue and be sued in its name.**

Amendment of section 4.

4. In section 4 of the principal Act,—

(i) in sub-section (1), for the words, “after consultation with the National Bank and the Sponsor Bank” the words “after consultation with the Reserve Bank of India” shall be substituted.

(ii) in sub-section (2), after the words “notified area”, the words “and with the permission of the Reserve Bank, outside the notified area under such conditions as may be imposed” shall be added.

Substitution of new section for section 5.

Authorised capital.

5. For section 5 of the principal Act, the following section shall be substituted, namely:—

**“5. The authorised capital of each Regional Rural Bank shall be five hundred crores of rupees divided into five lakhs of fully paid up shares of rupees ten thousand each:**

Provided that the Central Government, may after consultation with the Reserve Bank, increase or reduce such authorised capital in consideration of the population, topography, preponderance of people belonging to Scheduled Castes and Scheduled Tribes in the area and other relevant features of the notified area of the concerned Regional Rural Bank; so, however, that the authorised capital shall not be reduced below fifty crores of rupees and the shares shall be in all cases, fully paid up shares of rupees ten thousand each.”.

6. In section 6 of the principal Act,—

Amendment  
of section 6.

(i) in sub-section (1), for the words, “twenty-five lakhs of rupees or exceed one crore of rupees”, the words, “rupees five crore” shall be substituted.

(ii) for sub-section 2, the following sub-section shall be substituted, namely,—

**“(2) Of the capital issued by the Regional Rural Bank under sub-section (1), fifty per cent. shall be subscribed by the Central Government, fifteen per cent. by the concerned State Government, or the group of State Governments, in such proportion as may be prescribed by the Central Government, and the remaining thirty five per cent. shall be subscribed by the National Bank or any other nationalised Bank that may be notified by the Central Government under clause (g) of section 2.”**

(iii) for sub-section 3, the following sub-section shall be substituted, namely,—

**“(3) The Board may after consultation with the National Bank and the State Government or the group of State Governments concerned and with prior approval of Central Government from time-to-time increase the issued capital of the Regional Rural Bank where additional capital is issued, such capital shall also be subscribed in the same proportion as is specified in sub-section (2).”**

7. In section 9 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely,—

Amendment  
of section 9.

**“(1) The Board of Directors shall consist of the Chairman appointed under sub-section (1) of section 11 and the following other members, namely,—**

**(a) two directors who are not officers of the Central Government, State Government, Reserve Bank, National Bank, Sponsor Bank, or any other Bank, to be nominated by the Central Government from amongst eminent persons with experience in the field of economics, agriculture, rural development, banking, etc.;**

**(b) one director who is an officer of the Reserve Bank, to be nominated by the said Bank;**

**(c) one director who is an officer of the National Bank, to be nominated by the said Bank;**

**(d) two directors who are officers of the sponsor Bank, to be nominated by that bank provided that in cases where the National Bank has been assigned to be the Sponsor Bank, one of the Directors shall be a non-official of the concerned area/State with adequate knowledge in rural development, agriculture, economics, banking;**

**(e) two directors to be nominated by the concerned State Government or the group of State Governments by rotation for one year each;**

**(f) one director to be nominated by the largest association of officers of the Regional Rural Bank concerned from amongst their members who are working in the bank; and**

**(g) one director to be nominated by the largest association of employees of the Regional Rural Bank concerned from amongst their members who are working in the bank.”**

8. In section 10 of the principal Act, for the words and the brackets “(other than the Chairman)”, the words and the brackets “(other than the Chairman and the Director appointed under the clause (e) of section 9)” shall be substituted.

Amendment  
of section 10.

Amendment  
of section 11.

9. In section 11 of the principal Act, in sub-section (1),—

“(i) for the words “the Sponsor Bank”, the words “the Central Government or any other authority prescribed by the Central Government for the purpose” shall be substituted; and

(ii) in the proviso, in clause (a), for the words “national bank”, the words, “sponsor bank” shall be substituted.

Amendment  
of section 17.

10. In section 17 of the principal Act, in the second proviso to sub-section (1), for the portion beginning with the words “and, in determining such remuneration,” and ending with the words “status in the notified area” the words “from time-to-time in terms of periodical wage revisions of officers and employees of nationalised commercial banks and in determining the said remuneration, the Central Government shall have due regard to the award to the National Industrial Tribunal headed by Hon'ble Justice Shri Obul Reddy read with the relevant verdict of the Hon'ble Supreme Court pronounced on 31st October, 2001,” shall be substituted.

Amendment  
of section 18.

11. In section 18 of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

“(c) for granting loans and advances to the State Government and State sponsored autonomous bodies for the purpose of creation of rural infrastructure like roads, transport, electricity, irrigation facilities and any other matter connected with rural development and generation of rural employment.”.

Amendment  
of section 22.

12. Section 22 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) All term Deposit Certificates issued by Regional Rural Bank for a maturity period of not less than five years shall be entitled to rebate as allowed under sections 80L and 88 of the Income Tax Act, 1961.”.

Amendment  
of section  
23A.

13. In section 23A of the principal Act, in sub-section (3),—

“(i) in clause (a), the words and brackets ‘(excepting such of them as not being workmen within the meaning of Industrial Disputes Act, 1947 are specially mentioned in the notification)’ shall be deleted;

(ii) after clause (d), the following clause shall be inserted, namely:—

“(e) the manner in which the shares of a particular Sponsor Bank held in the transferor Regional Rural Bank shall be transferred to the Sponsor Bank of the transferee Regional Rural Bank.”.

Insertion  
of new  
section 24B.

14. After section 24A of the principal Act, the following section shall be inserted, namely:—

Constitution  
of National  
Rural Bank of  
India.

“24B. (1) The Central Government in consultation with the Reserve Bank and the National Bank may by a notification in the Official Gazette or by a separate Act of the Parliament constitute a National Rural Bank of India or by such other name as specified in the notification or Act, with a Chairman and such other number of members, as it may specify in the said notification or in the specified Act, drawn from banks, financial institutions, academicians and experts in rural development and rural banking.

(2) The apex authority so constituted shall recommend to the Central Government about the policy guidelines to be followed by Regional Rural Bank and Sponsor Banks and in particular help the Central Government in matters of selection of Chairman of Regional Rural Banks and act as the negotiating forum for settlement of demands and disputes with trade unions of officers and employees of Regional Rural Banks.

(3) The authority shall perform such other functions as may be assigned to it from time to time and exercise such powers as may be prescribed by the Central Government.”.

## STATEMENT OF OBJECTS AND REASONS

Regional Rural Banks (RRBs) have come to stay as an inseparable part of the country's rural credit system. Around 38 Per cent. of the cases implemented so far in the country under different poverty alleviation schemes have been negotiated by these Regional Rural Banks which also organise and finance over 50 Per cent. of the country's self-help groups. The Regional Rural Bank-System has, therefore, to be nurtured and strengthened in the interest of the rural masses. The merging needs of the rural economy would be very high and in the scenario on the anvil with agriculture being highly industrialized, massive investment in the rural economy would be imperative. The Regional Rural Banks, therefore, have to be geared up to assume a pivotal role in the process of economic regeneration of rural India with funds mobilized from the rural areas. In order to make the Regional Rural Banks more responsive to the needs of the rural masses as enshrined in the preamble to the Regional Rural Banks Act, 1976 and to remove their inbuilt limitations, some changes in their physical, operational and administrative structure are urgently required. A few suggestions to improve and strengthen the system of Regional Rural Banks have been given in the Bill as mentioned under:—

(i) to enhance the spatial coverage of Regional Rural Banks and to extend their areas of coverage;

(ii) to strengthen the resource-base of the banks by infusion of funds from different agencies;

(iii) to delink the Sponsor Bank to the maximum possible extent from the affairs of Regional Rural Banks in order to provide recognised banks a level playing field in the current competitive scenario;

(iv) to ensure unity of approach, unity of command and accountability of the functionaries at different levels;

(v) to allow employees' participation in the management and decision-making and to have a negotiating forum of their own.

The proposed amendments are likely to enhance viability of RRBs, make them financially sound and attitudinally pro-people by nurturing and exploiting the rich experience and inner dynamism developed in the course of the last two and a half decades and at the same time, provide the rural people a strong bank of their own to face the challenges of the changing scenario.

The Bill seeks to achieve the above objectives.

NEW DELHI;  
June, 7, 2004

BASUDEB ACHARIA.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 (1), 274 (1)  
AND 117(3) OF THE CONSTITUTION

[Copy of letter No. 12(1)/2004-RRB, dated 11 August, 2004 from Shri P. Chidambaram, Minister of Finance to the Secretary-General, Lok Sabha].

The President, having been informed of the subject matter of the Regional Rural Banks (Amendment) Bill, 2004 (*Amendment of section 2, etc.*) by Shri Basudeb Acharia, Member of Parliament, recommends the introduction under articles 117(1) and 274(1) and consideration of the Bill under article 117(3) of the Constitution in Lok Sabha.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to establish Regional Rural Banks. Clause 5 seeks to increase the authorised capital of each Regional Rural Bank from five crores of rupees to five hundred crores of rupees. Clause 6 seeks to increase the issued capital of each Regional Rural Bank from the existing limit of minimum twenty-five lakh of rupees and maximum one crore of rupees to five crores of rupees.

Clause 14 envisages to constitute an apex National Rural Bank of India which would also involve some recurring and non-recurring expenditure for creating and maintaining the infrastructural facilities for the apex authority.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. A recurring expenditure of about rupees five hundred crore per annum is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five crore is also likely to be involved from the Consolidated Fund of India.

## BILL NO. 82 OF 2004

*A Bill further to amend the Forest (Conservation) Act, 1980.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Forest (Conservation) Amendment Act, 2004.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

69 of 1980.

2. After section 2 of the Forest (Conservation) Act, 1980, the following section shall be inserted, namely:—

Insertion of  
new section  
2A.

“2A. Notwithstanding anything contained in section 2 when a forest land or any part thereof is required for any work relating to building new houses for tribal families in and around the existing tribal settlements, construction of anganwadies, primary health centres, laying of pipelines for drinking water or erection of electric poles for transmission and distribution of electricity for exclusive benefit of the tribal settlements, no approval of the Central Government shall be required for deforestation.”.

Provision for  
construction  
of new houses,  
anganwadies,  
public health  
centres and  
for other  
development  
work in tribal  
areas.

## STATEMENT OF OBJECTS AND REASONS

Tribal people living in the forest areas are facing innumerable hardships due to an existing statute namely 'The Forest (Conservation) Act, 1980' which restricts the use of reserved forest or any portion thereof for non-forest purpose. Due to this restriction, tribal people feel helpless in construction of their new houses, anganwadies, public health centres, etc. in the vicinity of their existing settlements.

These tribal people have not seen any developmental work in their area as the existing Act provides for a cumbersome procedure to be followed for clearance of any project for development of basic amenities in the area. It is necessary to serve the interests of the tribal people by amending the existing Forest (Conservation) Act, 1980 with a view to facilitate tribal people for carrying out necessary construction and other related works to meet the demands of their growing population for housing, health centres etc. in the vicinity of their existing settlements. This step will go a long way to mitigate their problems to some extent.

Hence this Bill.

NEW DELHI;  
June 10, 2004

C. K. CHANDRAPPA.



## BILL No. 20 OF 2004

*A Bill to provide for the constitution of a National Commission for senior citizens and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the National Commission for Senior Citizens Act, 2004. Short title,  
extent and  
commencement.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
- (a) "appropriate Government" means the State Government in relation to a State and the Central Government in all other cases;

(b) "Commission" means the National Commission for Senior Citizens constituted under section 3;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "senior citizen" means a person who has attained the age of sixty years or above.

## CHAPTER II

### NATIONAL COMMISSION FOR SENIOR CITIZENS

Constitution  
of National  
Commission  
for Senior  
Citizens.

**3. (1) The Central Government shall constitute a body to be known as the National Commission for Senior Citizens to exercise the powers conferred on, and to perform the functions assigned to it under this Act.**

**(2) The Commission shall consist of—**

**(a) a Chairman to be nominated by the Central Government from a panel of eminent persons who are committed to the cause of senior citizens;**

**(b) five members to be nominated by the Central Government from amongst the persons who are experts in the field of law or legislation (including legal bodies) or administration or economic development or health or education or social welfare.**

**(c) one member-Secretary to be nominated by the Central Government who shall be—**

**(i) an expert in the field of management, organisational structure or sociological movement; or**

**(ii) an officer who is a member of a civil service of the Union or of an all India service or holds a civil post under the Union with appropriate experience.**

Tenure of  
office of  
Chairman and  
other  
members.

**4. (1) The Chairman and every member shall hold office for a period not exceeding three years or as may be prescribed.**

**(2) Notwithstanding anything contained in sub-section (1), the Central Government may terminate the services of the Chairman or a Member, as the case may be, at any time before the expiry of the term as specified under sub-section (1) by giving to the Chairman or the Member, notice of not less than three months in writing or three months salary and allowances in lieu of such notice:**

**Provided that the Chairperson or the Member, as the case may be, relinquish the office at any time before the expiry of the term specified under sub-section (1) by giving to the Central Government, notice of not less than three months in writing.**

**(3) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.**

**(4) The salaries and allowances payable to, and the other terms and conditions of service of the Chairman and Members shall be such as may be prescribed.**

Officers and  
employees of  
the  
Commission.

**5. (1) The Central Government shall provide the Commission with such number of officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.**

**(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Commission shall be such as may be prescribed.**

Validity of  
the  
proceeding of  
the  
Commission.

**6. No act or proceeding of the Commission shall be questioned or invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.**

7. (1) The Commission may appoint such Committees as may be necessary, for dealing with such special issues as may be taken up by the Commission from time to time.

Appointment  
of  
Committees.

(2) The Commission shall have the power to co-opt as members of any Committee so appointed under sub-section (1), and the persons so co-opted shall have the right to attend the meetings of the Committee and take part in its proceedings but they shall not have the right to vote.

8. (1) The Commission or a Committee thereof shall meet as and when necessary at such time and place as the Chairperson may think fit.

Meetings.

(2) The Commission shall regulate its own procedure and the procedure of the Committees thereof.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

### CHAPTER III

#### FUNCTIONS OF THE COMMISSIONS

9. The Commission shall perform the following functions, namely:—

Functions of  
the  
Commission.

(1) (i) to study, investigate and review all matters relating to the safeguards provided for senior citizens under the different policies and schemes made by Central Government or a State Government; and

(ii) to recommend to the appropriate Government to take such steps as may be necessary for effective implementation of schemes and policies for senior citizens in order to improve their conditions;

(2) to look into complaints and take *suo motu* notice of matters relating to—

(i) deprivation of senior citizens' rights;

(ii) non-implementation of welfare schemes for senior citizens; and

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to senior citizens and take up the issues arising out of such matters with appropriate authorities;

(3) to call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against senior citizens and identify such constraints and recommend strategies for their removal;

(4) to inspect or cause to be inspected a jail, remand home, institution or other place or custody, where senior citizens are kept as prisoners and take up with the concerned authorities for remedial action, if found necessary;

(5) to take up with appropriate authorities for providing old age pension, proper and adequate medical facilities to senior citizens;

(6) to recommend to appropriate authorities to set up senior citizens home in adequate number in each district of the country;

(7) to fund litigation involving issues affecting a large body of senior citizens;

(8) to make periodical reports to the Government on any matter pertaining to senior citizens; and

(9) to take up any other matter which may be referred to it by the Central Government.

### CHAPTER IV

#### FINANCE, ACCOUNTS AND AUDIT

10. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Grants to  
Commission.

Maintenance  
of accounts  
and other  
records.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

11. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such forms as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General:

Provided that any person appointed by the Comptroller and Auditor-General in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(3) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission.

Commission  
to submit an  
annual report  
to Central  
Government.

12. The Commission shall prepare, in such form and at such time, as may be prescribed, for each financial year, its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government.

Central  
Government  
to lay report  
on action  
taken in the  
House.

13. The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received, before each House of Parliament.

## CHAPTER V

### MISCELLANEOUS

Chairman,  
Members and  
other staff to  
be public  
servants.

14. The Chairman, the Members, Officers and other employees of the Commission shall be deemed to be public servants within the meaning as prescribed in the Indian Penal Code.

Directions by  
the Central  
Government.

15. The Commission shall carry out such directions as may be issued to it from time to time by the Central Government for proper and efficient functioning of the Commission.

Power to  
make rules.

16. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of preparation of the panel of eminent persons under sub-section (2) of section 3;

(b) the salaries and allowances payable to, and the other terms and conditions of service of the Chairman and Members under sub-section (4) of section 4 and the officers and other employees under sub-section (2) of section 5;

(c) the allowances for attending the meetings of the Committee by the co-opted persons under sub-section (2) of section 7;

(d) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 11;

(e) the form in and the time at, which the annual report shall be prepared under section 12; and

(f) any other matter which is required to be or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which, may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The senior citizens have contributed their might for the development of the country to a great extent. However, they are ignored by their family, society and the Government. In majority of the cases, they have been left to fend for themselves. Various steps taken by the Government to ameliorate the sufferings of senior citizens have not been fruitful. Efforts of the Government are also supported by non-Governmental voluntary organisations. Nevertheless, their lot has not been improved. Welfare measures concerning senior citizens are not adequate and are not implemented properly. There is no uniform policy for the welfare of senior citizens.

Therefore, it is necessary that a comprehensive policy for the welfare of senior citizens is necessary. It is, therefore, proposed to set up a National Commission for the welfare of senior citizens.

NEW DELHI;

ANANT GANGARAM GEETE.

June 22, 2004

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a National Commission for Senior Citizens. Clauses 4 and 5 provide for salaries and allowances to be paid to the Chairman, Members, Officers and other staff of the Commission. Clause 9 provides for old age pension and proper medical facilities to senior citizens. Clause 10 provides for appropriation of money to be paid to the Commission by way of grants. Clause 11(2) provides for expenditure payable by the Commission to the Comptroller and Auditor-General for the auditing works.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. At present, it is not possible to give the exact amount which will be incurred out of the Consolidated Fund of India to carry out the provisions of the Bill. However, a recurring expenditure of the amount of rupees one hundred crore per annum is likely to be involved out of the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 19 OF 2004

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2004. Short title.
2. In article 298 of the Constitution, after the existing proviso, the following provisos shall be inserted, namely:— Amendment of article 298.

"Provided further that the said executive power of each State shall extend to making of contract for the purpose of export of any commodity from that State to any foreign country:

Provided also that such power shall be subject to any law made by Parliament in this behalf."
3. In the Seventh Schedule to the Constitution, in List-II State List, after entry '26' the following entry shall be inserted, namely:— Amendment of Seventh Schedule.

"26A. Export of products to foreign countries subject to any law made by Parliament."

## STATEMENT OF OBJECTS AND REASONS

In many States, various products are grown in excess of their demand. Sometimes, it so happens that even after transportation of the goods to other States, the products are available in plenty. Since they are in excess, they do not fetch a good price in the domestic market.

The storage facility is either not available or if available, it is not proper. The goods are therefore perished or lost/damaged in transit to storage places.

Such products can be put to best use by the States by exporting them to foreign countries. It will not only fetch a good price for growers but also precious foreign exchange. Growers will also be encouraged to grow more products.

Of course, a State Government should not be allowed a blanket permission to export products lest the excess products may not be supplied to other States where there is a heavy demand.

Therefore, some restriction on the part of the Central Government may be appropriate. The Bill accordingly seeks to amend the Constitution.

NEW DELHI;  
June 22, 2004

ANANT GANGARAM GEETE.



## BILL NO. 21 OF 2004

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

- |                                                                                                                                                                                                                                                     |                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 2004.                                                                                                                                                                                   | Short title.                   |
| 2. In clause (2) of article 103 of the Constitution of India for the words "Election Commission", the words "Electoral Council" shall be substituted.                                                                                               | Amendment of article 103.      |
| 3. After article 324 of the Constitution of India, the following article shall be inserted, namely:—                                                                                                                                                | Insertion of new article 324A. |
| <b>"324A. (1) There shall be set up an Electoral Council consisting of the Chairman of the Council of States, the Speaker of the House of the People, the Chief Election Commissioner and two eminent jurists to be appointed by the President.</b> | Electoral Council.             |
| (2) The Chairman of the Council of States shall be the Chairman of the Electoral Council.                                                                                                                                                           |                                |
| (3) The Electoral Council shall formulate the electoral policy and have the power review decisions taken by the Election Commission in the discharge of its functions."                                                                             |                                |

## STATEMENT OF OBJECTS AND REASONS

The role of Election Commission as seen during earlier elections has become the subject matter of intense debate. The decisions of the Election Commission have been both criticised or acclaimed by the political parties, groups depending upon their political ideologies.

Article 324 of the Constitution vests in the Election Commission the power of superintendence, direction and control of elections which is inherently an administrative power. The Election Commission cannot encompass policy decisions which impinge on the functions of the executive and legislature. Even the judicial intervention had to be sought to resolve certain controversial decisions of the Commission. This has created an unsavoury and anomalous situation.

The time has come to review the provisions of the Part XV of the Constitution. An "Electoral Council" consisting of the Chairman Rajya Sabha, Speaker Lok Sabha, Chief Election Commissioner and two eminent jurists should be constituted to review the decisions of the Election Commission. It will enhance transparency and credibility of the role of the Election Commission.

The Bill seeks to achieve the above objectives.

NEW DELHI;  
June 22, 2004

ANANT GANGARAM GEETE.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of an Electoral Council consisting of the Chairman of the Council of States, the Speaker of the House of the People, the Chief Election Commissioner and two eminent jurists to be appointed by the President. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten lakh per annum.

It is also likely to involve a non-recurring expenditure of about rupees five lakh.

## BILL NO. 17 OF 2004

*A Bill to provide for the protection and welfare of cotton growers.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Cotton Growers (Welfare) Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) "cotton grower" means any person who cultivates cotton;

(b) "small and marginal cotton growers" shall mean cotton growers who are declared as such under this Act; and

(c) "prescribed" means prescribed by rules made under this Act.

Short title,  
extent and  
Commence-  
ment.

Definitions.

Central Government to procure cotton and fix remunerative price thereof.

3. The Central Government shall procure through the Cotton Corporation of India the entire quantity of cotton produced in the country and shall also fix remunerative price of cotton every year after taking into consideration the increase in prices of cotton seeds, pesticides and fertilizers, total investment capacity of cotton growers and such other factors, as may be prescribed.

Export of excess cotton.

4. The Central Government shall endeavour to export all the excess cotton produced in the country during a year.

Insurance.

5. The entire cotton grown by the small and marginal cotton growers shall be compulsorily insured free of cost by the Central Government against natural calamities, decline in yields of cotton produced, fall in prices of cotton and such other eventualities, as may be prescribed.

Establishment of Cotton Growers Welfare Fund.

6. (1) The Central Government shall establish a Fund to be known as the Cotton Growers Welfare Fund.

(2) The Central Government and every State Government shall contribute to the Fund in such ratio, as may be prescribed.

(3) The Fund shall be utilized for the following purposes:—

(a) to extend financial help to the small and marginal farmers in such cases, as may be prescribed;

(b) giving financial assistance to cotton growers for purchasing cotton seeds, pesticides and fertilizers and in cases of low yields or fall in prices of cotton or destruction of their crops due to rains, cyclones and floods.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

The market fluctuations, nature's fury and Government's neglect have driven the cotton growers into a crisis. Declining yields and falling prices are making the lives of the poor farmers miserable. Andhra Pradesh is one of the three major cotton producing States along with Gujarat and Maharashtra. Cotton is mainly produced in Guntur, Prakasham, Kurnool, Mahbub Nagar, Warangal and Adilabad districts of Andhra Pradesh. The costs of cotton inputs have shot up increasing the total capital investment of cotton growers. But instead of getting remunerative prices, the cotton growers have to face shocking experiences as prices in different markets in the State have generally declined by 20 per cent as compared to the previous year.

The main reason behind the cotton growers getting non-remunerative prices is availability of excess stock of cotton in the market. There is, therefore, an urgent need to bring a law assuring the cotton growers of Government's help in the event of excess production or fall in prices and also to ensure that their minimum needs are looked after by the Government. The creation of a fund and the provision of insurance cover for cotton growers will help them immensely.

Hence this Bill.

NEW DELHI;  
June 22, 2004

R. SAMBASIVA RAO.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the purchase of cotton from cotton growers by the Central Government through the Cotton Corporation of India. Clause 5 provides that the entire cotton grown by small and marginal cotton growers shall be compulsorily insured free of cost by the Central Government against natural calamities, etc. Clause 6 provides for the establishment of a Cotton Growers Welfare Fund to which the Central Government and State Governments shall contribute in such ratio, as may be prescribed. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees two hundred crore per annum.

A non-recurring expenditure to the tune of rupees three hundred crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

## BILL NO. 14 OF 2004

*A Bill to provide for unemployment allowance to all educated unemployed persons and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Unemployment Allowance Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. The Central Government shall provide unemployment allowance to all educated unemployed youth at the rate of—

(i) rupees one thousand per month to those who have attained the age of seventeen years and have passed tenth class examination;

(ii) rupees one thousand five hundred per month to those who have attained the age of eighteen years and have studied upto higher secondary and above;

Short title,  
extent and  
commencement.

Unemployment  
allowance.

(iii) rupees two thousand per month to those who possess technical qualifications in engineering, medicine, etc., or have some other professional qualification.

3. The unemployment allowance referred to in section 2 shall be paid to a person till he secures gainful employment.

Unemployment allowance to be paid till employment.

4. Every person who has been provided with unemployment allowance under provisions of this Act shall, on securing employment, repay the total unemployment allowance which he had received, to the Government at the rate of—

Repayment of Unemployment allowance.

(i) rupees fifty per month, if he was receiving unemployment allowance of rupees one thousand per month;

(ii) rupees one hundred per month, if he was receiving unemployment allowance of rupees one thousand five hundred per month; and

(iii) rupees one hundred fifty, if he was receiving unemployment allowance of rupees two thousand per month.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

The number of unemployed youth is on the increase. The Government has failed to generate employment in the country. The unemployed youth have become restless and have started taking law into their own hands. They often fall victim to anti-social elements. Suicides by unemployed youth have also been reported in some cases.

The most unfortunate fact is that even those who possess technical qualifications like engineering, medical etc. face the same problem. Liberalisation of economic policy has also failed to generate employment in the country. Therefore, it is absolutely necessary that the Government should come up with some schemes for providing employment or in the alternate provide relief to all unemployed persons till they secure employment. Although, the assistance sought to be given will not be sufficient for them but nevertheless it will be a great help and a source of confidence to them. It has also been provided that unemployed youth who get unemployment allowance shall have to repay the allowance received by them to the Government after they secure employment.

The Bill seeks to achieve the above objective.

NEW DELHI;  
June 22, 2004

R. SAMBASIVA RAO.



### FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for payment of unemployment allowance to all educated unemployed youth according to their qualification.

The Bill, therefore, if enacted will involve an expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees three hundred crore is likely to be involved from the Consolidated Fund of India.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of a normal character.

## BILL NO. 18 OF 2004

*A Bill to provide for the protection and welfare of chilli growers.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Chilli Growers (Welfare) Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "chilli grower" means any person who cultivates chilli;

(b) "small and marginal chilli growers" shall mean chilli growers who are declared as such under this Act; and

(c) "prescribed" means prescribed by rules made under this Act.

3. The Central Government shall procure through the Spices Board the entire quantity of chillies produced in the country and shall also fix remunerative price of chilli every year after taking into consideration the increase in prices of chilli seeds, pesticides and fertilizers, total investment capacity of chilli growers and such other factors, as may be prescribed.

Central Government to procure chilli and fix remunerative price thereof.

4. The Central Government shall endeavour to export all the excess chilli produced in the Country during a year.

Export of excess chilli.

5. The entire quantity of chilli grown by the small and marginal chilli growers shall be compulsorily insured free of cost by the Central Government against natural calamities, decline in yields of chilli produced, fall in prices of chilli and such other eventualities, as may be prescribed.

Insurance.

6. (1) The Central Government shall establish a fund to be known as the Chilli Growers Welfare Fund.

Establishment of Chilli Growers Welfare Fund.

(2) The Central Government and every State Government shall contribute to the fund in such ratio, as may be prescribed.

(3) The fund shall be utilized for the following purposes:—

(i) to extend financial help to small and marginal chilli growers in such cases, as may be prescribed;

(ii) giving financial assistance to chilli growers for purchasing chilli seeds, pesticides and fertilizers and in cases of low yields or fall in prices of chillies or destruction of their crops due to rains, cyclones and floods.

7. The Central Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Chilli is grown in many parts of the country. The production of chilli is the highest in Andhra Pradesh. However, incidence of leaf curl and bacterial wilt adversely affect the production of chilli. Further, lack of availability of different varieties of chilli and the limited availability of hybrid technology has also affected the production of chilli. India has immense potential to grow chillies. However, the cost of cultivation of chilli is high mainly because of high cost of labour and plant protection chemicals. The chilli growing farmer invests huge amount of money on its cultivation but the remunerative price which he gets is not sufficient for him. The result is that the chilli grower does not sell his produce willingly. The main reason behind the chilli growers getting non-remunerative prices is availability of excess stock of chilli in the market. There is, therefore, an urgent need to bring a law assuring the chilli growers of Government's help in the event of excess production or fall in prices of chilli and also to ensure that their minimum needs are looked after by the Government. The creation of the proposed fund and the provision of insurance cover will help the chilli growers immensely.

The Bill seeks to achieve the above objective.

NEW DELHI;  
June 22, 2004

R. SAMBASIVA RAO.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the purchase of chilli from chilli growers by the Central Government through the Spices Board.

Clause 5 provides that the entire chilli grown by small and marginal chilli growers shall be compulsorily insured free of cost by the Central Government against natural calamities, etc.

Clause 6 provides for the establishment of a Chilli Growers Welfare Fund to which the Central Government and State Governments shall contribute in such ratio as may be prescribed.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees three hundred crore per annum.

A non-recurring expenditure to the tune of rupees four hundred crore is also likely to be involved.

## BILL NO. 37 OF 2004

*A Bill further to amend the Indian Penal Code, 1860.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2004.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

2. In section 55 of the Indian Penal Code, 1860 (hereinafter referred to as the Code) the following proviso shall be added at the end, namely:—

Amendment  
of Section 55.

"Provided that this section shall not apply to a person who is convicted under section 303 of the Code."

3. In section 302 of the Code, the words "death or" shall be omitted.

Amendment  
of Section 302.

4. In section 303 of the Code, for the word "death", the words "rigorous imprisonment for life" shall be substituted.

Amendment  
of Section 303.

5. In section 396 of the Code, the words "death, or" shall be omitted.

Amendment  
of Section 396.

## STATEMENT OF OBJECTS AND REASONS

Society has entered into a phase of modernization and with it the scope for reformation has also increased. The provisions relating to death sentence have been done away with in many countries which are constantly aware of human rights. The abolition of death sentence has led to exploring of more possibilities of improvement in the conduct of persons who have been convicted for offences of serious nature. Nowadays death sentence has become a thing of past. During British period, there was a system of hanging the revolutionaries to create terror among public. Now our country is independent and envisaging a clean and better society. In such a situation awarding death sentence to a person obliterates all possibilities of his improvement. In this civilized era, an emphasis should be given to provide an opportunity to convicted persons for their self improvement. The death sentence puts an end to the life of a person forever and with it all the possibilities of his improvement also come to an end. Therefore, there is a need to amend the provisions relating to death sentence in the Indian Penal Code, 1860.

Hence this Bill.

NEW DELHI;  
June 25, 2004

MOHAN SINGH.

## BILL NO. 41 OF 2004

*A Bill to provide for the establishment of a rural labour welfare fund for the welfare of the rural labour employed in the agriculture and other rural occupations and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Rural Labour Welfare Fund Act, 2004.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "employer" means the cultivator, orchard owner, poultry farm owner, agency, society including co-operative society or any establishment in a rural area which employs rural labour;

(b) "Fund" means the Rural Labour Welfare Fund established under section 3;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "rural labour" means any person engaged in agriculture, sericulture, poultry, horticulture, handicrafts or any related occupation in rural areas as a wage earner, whether in cash or kind, for his livelihood and includes a person engaged through a contractor or engaged as a self employed person.

Establishment  
of Fund.

3. (1) With effect from such date, as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be constituted for the purposes of this Act, a Fund to be called the Rural Labour Welfare Fund which shall be operated by an Authority with its headquarters at Shimla in the State of Himachal Pradesh.

(2) The Central Government shall after due appropriation made by Parliament in this behalf, credit to the Fund in each financial year such sums of money as it considers necessary for carrying out the purposes of this Act.

Utilisation of  
Fund.

4. The Fund shall be utilized by the Central Government to meet the expenditure in connection with measures which in the opinion of the Central Government, after consulting the Governments of the States and Union territories, are necessary or expedient to promote the welfare of the rural labour and in particular:—

(a) to defray the cost of measures to be carried out for the benefit of rural labour towards—

(i) providing water supply for drinking and other purposes;

(ii) providing educational facilities;

(iii) the improvement of standard of living and nutrition;

(iv) amelioration of the social conditions;

(v) providing housing and recreational facilities;

(vi) rendering financial assistance in case of infirmity or disability due to accident, old age, etc.

(vii) providing such other welfare measures as may be prescribed.

(b) to grant loan, assistance or subsidy to Government of any State, Union Territory Administration, local authority or any organisation for any scheme approved by the Central Government for the purposes connected with the welfare of rural labour;

(c) to pay annually grant-in-aid to Government of any State or Union territory administration, local authority or an employer or any other organisation which provides to the satisfaction of the Central Government such welfare measures and facilities of the prescribed standard for the benefit of rural labour;

(d) to meet the cost of administering the Fund;

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

State Advisory  
Committees.

5. (1) The Central Government may constitute as many Advisory Committees as it deems fit to advise the Central Government on such matters arising out of the implementation of the provisions of this Act or administration of the fund:

Provided that at least one Advisory Committee for each State and Union territory shall be constituted by the Central Government in consultation with the respective State Government and Union territory administration.



(2) The Chairman and such number of other members, as may be prescribed, of each Advisory Committee shall be appointed by the Central Government.

(3) the term of office and other conditions of service of the Chairman and other members shall be such as may be prescribed.

6. (1) The Central Government shall constitute a Central Advisory Committee to coordinate the work of the Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the implementation of provisions of this Act.

Central  
Advisory  
Committee.

(2) The Chairman and such number of other members as may be prescribed of the Central Advisory Committee shall be appointed by the Central Government.

(3) The term of office and other conditions of service of the Chairman and other members shall be such as may be prescribed.

7. (1) The Central Government may appoint as many as Rural Labour Welfare Fund Commissioners, Inspectors and such other officers and staff as it deems necessary for carrying out the purposes of this Act.

Appointment  
of  
Commissioners,  
Inspectors and  
other officers.

45 of 1860

(2) Every person appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

(3) Any officer or inspector appointed under this Act, may,—

(a) with such assistance, if any, as he may deem fit, inspect at any reasonable time in any place which he considers necessary for carrying out the purposes of this Act;

(b) do within such place anything necessary for the proper discharge of his duties; and

(c) exercise such other powers as may be prescribed.

8. The Central Government may require a State Government or a Union Territory Administration or a local authority or an employer to furnish for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

State  
Government,  
etc. to furnish  
requisite  
information.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which the fund may be applied;

(b) the conditions governing the grant of loans or subsidy;

(c) the conditions governing grant-in-aid;

(d) the standard of welfare measures and facilities to be provided out of the fund;

(e) the composition of the Advisory Committees and Central Advisory Committee constituted under sections 5 and 6 respectively and the manner in which the members thereof shall be appointed;

(f) the term of office of such members, the allowances, if any, payable to them and the manner in which the Advisory Committee and the Central Advisory Committee shall conduct their business;

(g) the recruitment, conditions of service and duties of all persons appointed under section 7;

(h) the powers that may be exercised by an officer or inspector appointed under section 7.

## STATEMENT OF OBJECTS AND REASONS

India resides in villages and 85 percent. of its population earns its livelihood from agriculture. There are cultivators, orchard owners, poultry owners, agricultural workers and home based workers in the rural areas. However, their wages and income are meagre and many of them do not get employment throughout the year. This rural labour also becomes an easy prey to the debt trap of the landlords and money lenders who force them to become bonded labourers. Most of them are very poor and are living in distress for generations. In a Welfare State like ours there are no welfare schemes or funds for these hapless rural labourers whereas in the industrial sector there are Labour Welfare Boards and cess is levied and collected through legislative measures in order to provide them with various amenities including housing, education and medical care. But the rural labour are unorganized and thus are neglected even by the State.

It is, therefore, necessary that in order to ameliorate the plight of rural workers the Central Government should establish a Rural Labour Welfare Fund for financing adequately and systematically the welfare measures to be carried out for the rural and agricultural labour throughout the country so as to achieve the goals of welfare State in its true sense.

Hence this Bill.

NEW DELHI;  
June 25, 2004

SURESH CHANDEL.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Rural Labour Welfare Fund. Clause 5 provides for the constitution of Advisory Committees. Clause 6 provides for constitution of a Central Advisory Committee. Clause 7 provides for appointment of Rural Labour Welfare Commissioners, Inspectors and such other officers and staff for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India but it is not possible at this stage to give the precise details of the expenditure that would be involved. It is, however, estimated that it will involve a recurring expenditure of about rupees two hundred twenty five crore per annum.

It will also involve a non-recurring expenditure of about rupees fifty five lakh.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill provides that the Central Government may make rules for carrying out the purposes of this Bill. The delegation of legislation power will relate to matters of details only and is of a normal character.

## BILL NO. 36 OF 2004

*A Bill to provide for the formulation of special development plans and establishment of an autonomous authority to implement such plans in respect of the drought prone areas of the country and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Drought Prone Areas Development Authority Act, 2004.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Authority" means the Drought Prone Areas Development Authority established under section 4;

(b) "drought prone areas" mean such areas in the country which, in the opinion of the Central Government, is drought prone and declare, by notification in the Official Gazette, as such in consultation with the Government of the States and Union territory Administrations;

(c) "prescribed" means prescribed by rules made under this Act.

Central Government to formulate special development plans for drought prone areas.

3. The Central Government shall, within a period of six months from the date of commencement of this Act, formulate special development plans for providing industrial growth, railways, roads, post and telegraph and other means of communications, and in particular, plans relating to agriculture, irrigation facilities, drinking water through wells, hand pumps and tap water, fodder facilities, electricity, development of forests, livestock, milk and poultry co-operatives, health services including family welfare schemes, education and vocational training and special employment drives in the drought prone areas in the country.

Establishment of Drought Prone Areas Development Authority.

4. (1) For the purposes of this Act, with effect from such date, as the Central Government may, by notification in the Official Gazette, appoint, in this behalf, there shall be established by the Central Government an Authority to be called the Drought Prone Areas Development Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with the power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Authority shall be at Dharamshala in Kangra district in the State of Himachal Pradesh and the Authority may establish its offices at such places in the country and in such manner as may be prescribed.

(4) The Authority shall consist of a Chairman, Vice-Chairman and such other members as may be prescribed.

(5) The Authority shall have such officers, employees and the conditions of services of such officers and employees shall be such as the Central Government, may, by notification in the Official Gazette, determine from time to time for the efficient functioning of the Authority.

(6) The Authority shall conduct its business in such manner as may be prescribed.

Authority to implement the special development plans.

5. It shall be the duty of the Authority to implement the special development plans formulated under section 3.

Funds of the Authority.

6. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law, adequate funds for the implementation of special development plans in the drought prone areas and for the administrative expenses of the Authority.

Development Fund.

7. The Authority shall have a fund to be called the 'Drought Prone Areas Development Fund' to which shall be credited all moneys received from the Central and State Governments, international financial institutions, industrial establishments and individuals for the development of drought prone areas in the country and all payments by the Authority towards development expenditure shall be made therefrom.

Annual Report.

8. The Authority shall submit an annual report, in such form and in such manner, as may be prescribed, of its activities of development in the drought prone areas of the country to the President of India who shall cause the report to be laid before both the Houses of Parliament, as soon as may be, after it is received by him.

Savings.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to any of the provisions contained in this Act.

Power to make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

Unprecedented drought conditions play consistent havoc in various parts of the country. Drought conditions are prevailing for the last many years in the tribal belt of Chhattisgarh, Madhya Pradesh, Palamu division of Jharkhand, Kalahandi of Orissa, various parts of Andhra Pradesh, Rajasthan, Himachal Pradesh and Gujarat and other parts of the country. The farmers cannot grow their crops in the parched land of these areas and rain God remains consistently evasive in such areas resulting in acute shortage of even drinking water because the wells and hand pumps have either dried up or the groundwater level has gone down considerably. There are no irrigation facilities in these areas. The inhabitants do not get food to eat and water to drink resulting in their exodus to other places. In many places starvation deaths have also been reported. The worst affected is the mute livestock dying unnatural death in the absence of fodder and water. Though the Central and State Governments give some relief, it is inadequate and even negligible. The situation often goes from bad to worse due to the apathy of the authorities. To save the situation, urgent steps have to be taken at the national level.

Drought is not a temporary phenomenon in these areas. It is almost a continuous feature. Therefore, a long term national policy will have to be formulated for the proper development of these drought prone areas. The onus of formulating such a policy lies on the Central Government and an autonomous Authority needs to be established for implementing the plans formulated for the development of drought prone areas in the country. This has to be undertaken on priority.

This Bill seeks to achieve the above objective.

NEW DELHI;  
June 25, 2004

SURESH CHANDEL.

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of a Drought Prone Areas Development Authority. Clauses 6 and 7 provide for the funds of the Authority. The Bill, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two hundred fifty crore will be involved as recurring expenditure per annum.

It may also involve a non-recurring expenditure of rupees sixty crore from the Consolidated Fund of India.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only.

The delegation of legislative power is, therefore, of a normal character.

## BILL No. 38 OF 2004

*A Bill to protect the interests of agricultural workers and to provide for their welfare.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. (1) This Act may be called the Agricultural Workers (Employment, Conditions of Service and Welfare) Act, 2004.</p> <p>(2) It extends to the whole of India.</p> <p>(3) It shall come into force at once.</p> <p>2. The Central Government shall establish an Agricultural Workers Welfare Board (hereinafter referred to as 'Board') to protect the interests of agricultural workers in the country.</p> <p>3. (1) The Board shall consist of a Chairman and twenty other members.</p> <p>(2) The Chairman of the Board shall be elected by the members of the Board.</p> <p>(3) The members of the Board shall be elected by agricultural workers in such manner as may be prescribed by rules made under this Act.</p> | <p>Short title, extent and commencement.</p> <p>Establishment of Agricultural Workers Welfare Board.</p> <p>Chairman and other members of Board.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|

(4) The Chairman and other members of the Board shall hold office for a period of five years.

(5) The headquarters of the Board shall be at New Delhi.

Functions of  
Board.

4. The Board shall perform the following functions:—

(i) to provide employment to agricultural workers during off season period or natural calamities with such wages as may be prescribed;

(ii) to provide assistance to agricultural workers if employment is not provided to them.

(iii) to establish a Board at State level to monitor the implementation of rules and regulations made by the Board for welfare of agricultural workers.

Power to  
make rules.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.



## STATEMENT OF OBJECTS AND REASONS

There are about 320 million workers in the country, out of whom 20 million are agricultural workers. Floods and droughts play havoc in the lives of agricultural workers. The use of pesticides and chemical fertilizers also cause serious health hazards to the agricultural workers. Their jobs are at the mercy of the land owners and there is no security of employment. It is, therefore, necessary that the agricultural workers are fully protected and the benefits available to industrial workers in the country are also provided to agricultural labourers.

Hence this Bill.

NEW DELHI;  
June 30, 2004

R. SAMBASIVARAO.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for establishment of Agricultural Workers Welfare Board to protect the interests of agricultural workers in the country. Clause 4 of the Bill provides for employment and assistance to agricultural workers during off season period. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees three hundred crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 40 OF 2004

*A Bill to provide for uniform marriage and divorce law for all citizens of the country.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Uniform Marriage and Divorce Act, 2004.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) the expressions "custom" "usage" signify any rule that is being continuously and uniformly observed for a long time and has obtained the force of law, among any community in any local area, tribe, community, group or family; and

(b) "District Court" means, in an area for which there is a city civil court, that court and in any other area the principal court of original jurisdiction, and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act.

3. (1) Save as otherwise expressly provided in this Act:

Over-riding  
effect of the  
Act.

(a) any text, rule or interpretation of any law or any custom or usage in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act; and

(b) any other law in force immediately before the commencement of this Act shall cease to apply in so far as it is inconsistent with any of the provisions contained in this Act.

4. After the commencement of this Act, a marriage may only be solemnised between the two persons if the following conditions are fulfilled—

Conditions for  
valid marriage.

(i) the marriage is valid under any other law applicable to the parties;

(ii) neither party has a spouse living at the time of marriage;

(iii) the bridegroom has completed the age of twenty-one years and the bride the age of eighteen years at the time of the marriage; and

(iv) at the time of the marriage neither party—

(a) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or

(b) though capable of giving valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage; or

(c) is unfit for procreation of children; or

(d) has been subject to recurrent attacks of insanity.

5. Notwithstanding that a marriage is null and void under this Act, any child born of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of this Act and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than a petition under this Act.

Legitimacy of  
children.

6. Any marriage solemnised after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto against the other party, be so declared by a decree of nullity if it contravenes condition specified in clause (ii) of section 4.

Void marriages.

7. (1) Any marriage solemnised, whether before or after the commencement of this Act may be dissolved only by a decree of divorce granted by a court of the competent jurisdiction.

Divorce.

(2) No court will dissolve any marriage by a decree of divorce unless and until a party presenting the petition for divorce is entitled to divorce under the law applicable to the parties or the court has reasons to believe that the marriage has broken down and cannot be reconciled.

*Explanation.*—It is hereby declared that the provisions of this section will not affect any divorce before the commencement of this Act.

8. (1) Subject to the provisions of this Act, a petition for dissolution of marriage by a decree of divorce may be presented to the district court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of this Act, on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

Divorce by  
mutual consent.

(2) On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a

marriage has been solemnised and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.

Court to which  
petition shall  
be presented.

9. Every petition under this Act shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction—

- (i) the marriage was solemnised, or
- (ii) the respondent, at the time of the presentation of the petition, resides, or
- (iii) the parties to the marriage last resided together, or
- (iv) in case the wife is the petitioner, where she is residing on the date of the petition, or
- (v) the petitioner is residing at the time of the presentation of the petition, in case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.

Maintenance  
and expenses  
of proceedings.

10. Notwithstanding anything contained in any other law, custom or usage, where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceedings, it may on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly, during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable.

Permanent  
alimony and  
maintenance.

11. Notwithstanding anything contained in any other law, custom or usage, any court exercising jurisdiction under this Act may, at the time of passing any decree or at anytime subsequent thereto, on an application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant, as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant, the conduct of the parties, *Mehar* if any, between the parties and other circumstances of the case, it may seem to the court to be just and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.

Custody of  
children.

12. Notwithstanding anything contained in any other law, custom or usage, in any proceeding under this Act, the court may from time to time, pass such interim orders and, make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, their welfare, consistently with their wishes, wherever possible, and may, after the decree, upon application by petitioner for the purpose, make from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or interim orders in case the proceeding for obtaining such decree was still pending, and the court may, also from time to time, revoke suspend or vary any such orders and provisions previously made.

Disposal of  
property.

13. Notwithstanding anything contained in any law, custom or usage, the court may in any proceeding under this Act make such provisions in the decree as it deems just and proper with respect to any property possessed, at or about the time of marriage, which may belong jointly to both the husband and the wife.

Appeal from  
decrees and  
orders.

14. (1) All decrees made by the court in any proceeding under this Act shall be appealable as decrees of the court made in the exercise of its original civil jurisdiction, and every such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction.

(2) Every appeal under this section shall be preferred within a period of ninety days from the date of decree or order.

15. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in any proceeding at the trial of a petition under this Act on the ground that it is not duly stamped or registered.

Documentary evidence.

16. (1) Every proceeding under this Act shall be conducted *in camera* and it shall not be lawful for any person to print or publish any matter in relation to any such proceeding except a judgement of the High Court or of Supreme Court printed or published with the previous permission of the Court.

Proceedings to be in camera and may not be printed or published.

(2) If any person prints or publishes any matter in contravention of the provisions contained in sub-section (1), he shall be punishable with fine which shall not be less than two thousand rupees and which may extend to five thousand rupees.

17. (1) The trial of a petition under this Act shall, as far as is practicable, consistently with the interest of justice in respect of the trial, be continued from day to day until its conclusion unless the court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

Special provision relating to trial and disposal of petitions under the Act.

(2) Every petition under this Act shall be made to conclude the trial within six months from the date of service of notice of the petition on the respondent.

(3) Every appeal under this Act shall be heard as expeditiously as possible, and endeavour shall be made to conclude the hearing within three months from the date of service of notice of appeal on the respondent.

18. All decrees and orders made by the court in any proceeding under this Act shall be enforced in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction for the time being are enforced.

Enforcement of decrees and orders.

19. (1) Any marriage solemnized after the commencement of this Act is void if at the date of such marriage either party had a husband or wife living and the provisions of sections 494 and 495 of the Indian Penal Code shall apply accordingly.

Punishment for contravention of certain conditions of marriage.

(2) Every person who procures a marriage of himself or herself to be solemnized under this Act in contravention of the conditions specified in clause (iii) of section 4 shall be punishable with simple imprisonment which may extend to fifteen-days or one thousand rupees or with both.

## STATEMENT OF OBJECTS AND REASONS

Article 44 of the Constitution states that the State shall endeavour to secure for the citizens uniform civil code throughout the country. The present Bill is a step in that direction. It seeks to prohibit polygamy and permits the courts to grant maintenance and decide about the custody of children and disposal of the property for benefit of women and children. The Bill does not take away rights of the parties to obtain divorce on the grounds available under personal laws but makes it mandatory to obtain it through intervention of the court. It also permits the divorce on mutual consent where the marriage has broken down and cannot be reconciled.

The Bill seeks to achieve the above objective.

NEW DELHI;  
June 30, 2004

BACHI SINGH RAWAT.

## BILL NO. 84 OF 2004

*A Bill to provide for the creation of a Legislative Assembly for the Union territory of Andaman and Nicobar Islands and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

## PART I

## PRELIMINARY

1. (1) This Act may be called the Government of Union Territory of Andaman and Nicobar Islands Act, 2004.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "article" means an article of the Constitution;

(b) "Assembly constituency" means a constituency provided under this Act for the purpose of election to the Legislative Assembly;

(c) "Election Commission" means the Election Commission referred to in article 324;

(d) "Legislative Assembly" means the Legislative Assembly of the Union territory of Andaman and Nicobar Islands;

(e) "Scheduled Castes" in relation to the Union territory means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 of the Constitution to be Scheduled Castes in relation to that Union territory;

(f) "Scheduled Tribes" in relation to the Union territory means such tribes, races or parts of the groups within such tribes or races as are deemed under article 342 to be Scheduled Tribes in relation to the Union territory; and

(g) "Union territory" means the Union territory of Andaman and Nicobar Islands.

## PART II

### LEGISLATIVE ASSEMBLY

Legislative  
Assembly and  
its composi-  
tion.

3. (1) The total number of seats in the Legislative Assembly to be filled by persons chosen by direct election from territorial constituencies shall be thirty.

(2) For the purposes of election to the Legislative Assembly, the Union territory shall be divided into single-member assembly constituencies in accordance with the provisions of Part III in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Union territory.

(3) Seats shall be reserved for the Scheduled Tribes in the Legislative Assembly, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Tribes in the Union territory bears to the total population of the Union territory and the provisions of article 334 shall apply to such reservation.

*Explanation.*—In this section, the expression "population" means the population as ascertained in the last preceding census of which the relevant figures have been published:

Provided that where such figures have not been published, then for the purposes of elections for the constitution of the first Legislative Assembly under this Act, the provisional figures of the population of the Union territory as published in relation to the 2001 census shall be deemed to be the population of the Union territory.

Qualifications  
for member-  
ship of  
Legislative  
Assembly.

4. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he—

(a) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Schedule;

(b) is not less than twenty-five years of age; and

(c) possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Duration of  
Legislative  
Assembly.

5. The Legislative Assembly, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:



Provided that the said period may, while a Proclamation of Emergency issued under clause (1) of article 352 is in operation, be extended by the President by order for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

6. (1) The Lieutenant Governor shall, from time to time, summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

Session of  
Legislative  
Assembly,  
prorogation  
and dissolu-  
tion.

(2) The Lieutenant Governor may, from time to time,—

(a) prorogue the Assembly;

(b) dissolve the Assembly.

7. (1) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

Speaker or  
Deputy  
Speaker of  
Legislative  
Assembly.

(2) A member holding office as Speaker or Deputy Speaker of the Legislative Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may, at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker: to the Speaker resign his office; and

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(3) While the office of Speaker is vacant the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as may be determined by the rules of procedure of the Assembly.

(4) During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker, or if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

8. (1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of sub-section (4) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker is absent.

Speaker  
or Deputy  
Speaker not to  
preside while a  
resolution for  
his removal  
from office  
is under  
consideration.

(2) The Speaker shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 13,

be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Right of Lt. Governor to address and send message to Legislative Assembly.

9. (1) The Lieutenant Governor may address the Legislative Assembly and for that purpose require the attendance of members.

(2) The Lieutenant Governor may send message to the Assembly whether with respect to a Bill then pending in the Assembly or otherwise and when a message is so sent, the Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the Lieutenant Governor.

10. (1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Lieutenant Governor shall address the Legislative Assembly and inform it of the causes of its summons.

(2) Provision shall be made by rules to be made by the Assembly regulating its procedure for the allotment of time for discussion of the matters referred to in such address.

Rights of Ministers as respects Legislative Assembly.

11. Every Minister shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly and to speak in and otherwise to take part in the proceedings of any committee of the Legislative Assembly of which he may be named a member, but shall not by virtue of this section be entitled to vote.

Oath or affirmation by member.

12. Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Lieutenant Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule.

Voting in Legislative Assembly, power of Assembly to act notwithstanding vacancies and quorum.

13. (1) Save as otherwise provided in the act, question at any sitting of the Legislative Assembly shall be determined by a majority of votes of the members present and voting other than the Speaker or person acting as such.

(2) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(3) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(4) The quorum to constitute a meeting of the Legislative Assembly shall be one-third of the total number of members of the Assembly.

(5) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker, or person acting as such, either to adjourn the Assembly or to suspend the meeting until there is a quorum.

Vacation of seats.

14. (1) No person shall be a member both of Parliament and of the Legislative Assembly and if a person is chosen a member both of Parliament and of such Assembly, then at the expiration of such period as is specified in or under the Representation of People Act, 1951, and the rules made by the President under clause (2) of article 101 and clause (2) of article 190, that person's seat in Parliament shall become vacant, unless he had previously resigned his seat in the Legislative Assembly.

43 of 1951.

(2) If a member of the Legislative Assembly—

(a) becomes subject to any disqualification mentioned in section 15 or section 16 for membership of the Assembly, or

(b) resigns his seat by writing under his hand addressed to the Speaker and his resignation is accepted by the Speaker, his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to clause (b), if from the information received or otherwise and after making such inquiry as he thinks fit, the Speaker is satisfied that such resignation is not voluntary or genuine he shall not accept such resignation.

(3) If for a period of sixty days a member of the Legislative Assembly is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Assembly is prorogued or is adjourned for more than four consecutive days.

15. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly—

Disqualification  
for  
membership.

(a) if he holds any office of profit under the Government of India or the Government of any State or the Government of any Union territory other than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of any other Union territory not to disqualify its holder; or

(b) if he is for the time being disqualified for being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (b), sub-clause (c) or sub-clause (d) of clause (1) of article 102 or of any law made in pursuance of that article.

(2) For the purpose of the section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of any Union territory by reason only that he is a Minister either for the Union or for such State or Union territory.

(3) If any question arises as to whether a member of the Legislative Assembly has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the President and his decision shall be final.

(4) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

16. The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modifications (including modifications for construing reference therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly, section 12, section 18 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly as they apply to and in relation to the members of the Legislative Assembly of a State and accordingly—

Disqualification  
on ground of  
defection.

(a) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and

(b) a person shall be disqualified for being a member of the Legislative Assembly if he is so disqualified under the said Tenth Schedule as so modified.

17. If a person sits or votes as a member of the Legislative Assembly before he has complied with the requirements of section 12 or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

Penalty for  
sitting and  
voting before  
making oath  
of affirma-  
tion or when  
not qualified  
or when  
disqualified.

18. (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly; there shall be freedom of speech in the Legislative Assembly.

Powers,  
privileges,  
etc. of  
members.

(2) No member of the Legislative Assembly shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Assembly or any committee

thereof and no person shall be so liable in respect of the publication by or under the authority of such Assembly of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as are for the time being enjoyed by the House of the people and its members and committees.

(4) The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who, by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly or any committee thereof as they apply, in relation to members of that Assembly.

Salaries and allowances of members.

**19. Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.**

Exemption of property of the Union from taxation.

**20. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempted from all taxes imposed by or under any law made by the Legislative Assembly or by or under any other law in force in the Union territory.:**

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent any authority within the Union territory from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable, so long as the tax continues to be levied in the Union territory.

Restrictions on laws passed by Legislative Assembly with respect to certain matters.

**21. (1) The provisions of article 286, article 287 and article 288 shall apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in those articles as they apply in relation to any law passed by the Legislature of a State with respect to those matters.**

(2) The provisions of article 304 shall, with the necessary modification, apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in that article as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

Special provisions as to financial Bills.

**22. (1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly except on the recommendation of the Lieutenant Governor if such bill or amendment makes provision for any of the following matters, namely:—**

(a) the imposition, remission, alteration or regulation of any tax;

(b) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Union territory.

(c) the appropriation of moneys out of the Consolidated Fund of the Union territory;

(d) the declaring of any expenditure to the expenditure charged on the Consolidated Fund of the Union territory or the increasing of the amount of any such expenditure;

(e) the receipt of money on account of the Consolidated Fund of the Union territory or the custody of such money:

Provided that no recommendation shall be required under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of the Union territory shall not be passed by the Legislative Assembly unless the Lieutenant Governor has recommended to that Assembly the consideration of the Bill.

23. (1) A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly.

Procedure as to lapsing of Bills.

(2) A Bill which is pending in the Legislative Assembly shall lapse on a dissolution of the Assembly.

24. When a Bill has been passed by the Legislative Assembly it shall be presented to the Lieutenant Governor and the Lieutenant Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Assent to Bills.

Provided that the Lieutenant Governor may, as soon as possible after the presentation of the Bill to him for assent, return the Bill if it is not a Money Bill together with a message requesting that the Assembly will reconsider the Bill or any specified provisions thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and, when a Bill is so returned, the Assembly will reconsider the Bill accordingly, and if the Bill is passed again with or without amendment and presented to the Lieutenant Governor for assent, the Lieutenant Governor shall declare either that he assents to the Bill or that he reserves the Bill for the consideration of the President:

Provided further that the Lieutenant Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which.—

(a) in the opinion of the Lieutenant Governor would if it became law so derogate from the powers of the High Court as to endanger the position which that Court is by the Constitution designed to fill; or

(b) the President may, by order direct to be reserved for his consideration; or

(c) relates to a matter referred to in sub-section (5) of section 7 or section 19 or section 34 or sub-section (3) of section 43.

*Explanation.*—For the purposes of this section and section 25, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of section 22 or any matter incidental to any of those matters and in either case, there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

25. When a Bill is reserved by the Lieutenant Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Bills reserved for consideration.

Provided that where the Bill is not a Money Bill, the President may direct the Lieutenant Governor to return the Bill to the Legislative Assembly together with such a message as is mentioned in the first proviso to section 24 and when a Bill is so returned the Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message and if it is again passed by the Assembly with or without amendment it shall be presented again to the President for his consideration.

26. No Act of the Legislative Assembly and no provision in any such Act shall be invalid by reason only that some previous sanction or recommendation required by this Act was not given if assent to that Act was given by the Lieutenant Governor or on being reserved by the Lieutenant Governor for the consideration of the President, by the President.

Requirements as to sanction, etc.

Annual  
financial  
statement.

27. (1) The Lieutenant Governor shall in respect of every financial year cause to be laid before the Legislative Assembly, with the previous sanction of the President, a statement of the estimated receipts and expenditure of the Union territory for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of the Union territory; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the Union territory and shall distinguish expenditure on revenue account from other expenditure.

(3) Notwithstanding anything contained in any law for the time being in force, the following expenditure shall be expenditure charged on the Consolidated Fund of the Union territory:—

(a) the emoluments and allowances of the Lieutenant Governor and other expenditure relating to his office as determined by the President by general or special order;

(b) the charges payable in respect of loans advanced to the Union territory from the Consolidated Fund of India including interest, sinking fund charges and redemption charges and other expenditure connected therewith;

(c) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(d) any sums required to satisfy any judgement, decree or award of any court or arbitral tribunal;

(e) any other expenditure declared by the Constitution or by law made by Parliament or by the Legislative Assembly to be so charged.

Procedure in  
Legislative  
Assembly  
with respect  
to estimates.

28. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of the Union territory shall not be submitted to the vote of the Legislative Assembly, but nothing in this sub-section shall be construed as preventing the discussion in the Legislative assembly of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Lieutenant Governor.

Appropriation  
Bills.

29. (1) As soon as may be after the grants under section 28 have been made by the Legislative Assembly there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Union territory of all moneys required to meet—

(a) the grants so made by the Assembly; and

(b) the expenditure charged on the Consolidated Fund of the Union territory but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the Union territory and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Union territory except under appropriation made by law passed in accordance with provisions of this section.

30. (1) The Lieutenant Governor shall,—

Supplementary,  
addition or  
excess grants.

(a) if the amount authorised by any law made in accordance with the provisions of section 29 to be expended for a particular service for the current financial year is found to be insufficient for purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the Legislative Assembly, with the previous sanction of the President, another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly with such previous sanction a demand for such excess, as the case may be.

(2) The provisions of sections 27, 28 and 29 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or grant.

31. (1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 28 for the voting of such grant and the passing of the Law in accordance with the provisions of section 29 in relation to that expenditure and the Legislative Assembly shall have power to authorise by law the withdrawal of moneys from the consolidated Fund of the Union territory for the purposes for which the said grant is made.

Votes on  
account.

(2) The provisions of sections 28 and 29 shall have effect in relation to the making of any grant under sub-section (1) or to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys, out of the Consolidated Fund to the Union territory to meet such expenditure.

32. Notwithstanding anything in the foregoing provisions of this Part, the Lieutenant Governor may authorise such expenditure from the Consolidated Fund of the Union territory as he deems necessary for a period of not more than six months beginning with the date of the constitution of the Consolidated Fund of the Union territory, pending the sanction of such expenditure by the Legislative Assembly.

Authorisation  
of expenditure  
pending its  
sanction by  
Legislative  
Assembly.

33. (1) The Legislative Assembly may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business:

Rules of  
procedure.

Provided that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules—

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Union territory;

(c) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the functions of the Lieutenant Governor in so far as he is required by or under this Act or any law to act in his discretion.

(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the Legislative Assembly of the State of Uttar Pradesh in force immediately before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as may be made therein by the Lieutenant Governor.

Official language or languages of the Union territory and language or languages to be used in Legislative Assembly.

34. (1) The Legislative Assembly may by law adopt any one or more of the languages in use in the Union territory or Hindi as the official language or languages to be used for all or any of the official purposes of the Union territory:

Provided that the President may by order direct—

(i) that the official language of the Union shall be adopted for such of the official purposes of the Union territory as may be specified in the order.

(ii) that any other language shall also be adopted throughout the Union territory or such part thereof for such of the official purposes of the Union territory as may be specified in the order, if the President is satisfied that a substantial proportion of the population of the Union territory desires the use of that other language for all or any of such purposes.

(2) The business in the Legislative Assembly shall be transacted in the official language or languages of the Union territory or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or the person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid, to address the Assembly in his mother-tongue.

Language to be used for Bills, Acts, etc.

35. Notwithstanding anything contained in section 34, until Parliament by law otherwise provides, the authoritative texts—

(a) of all Bills to be introduced or amendments thereto to be moved in the Legislative Assembly;

(b) of all Acts passed by the Legislative Assembly; and

(c) of all orders, rules, regulations and bye-laws issued under any law made by the Legislative Assembly,

shall be in English language:

Provided that where the Legislative Assembly has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by the Legislative Assembly or in any order, rule, regulation or bye-law issued under any law made by the Legislative Assembly, a translation of the same in the English language published under the authority of the Lieutenant Governor in the official Gazette shall be deemed to be the authoritative text thereof in the English language.

Restrictions on discussion in the Legislative Assembly.

36. No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of duties.

Courts not to inquire into proceedings of Legislative Assembly.

37. (1) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.



## PART III

## DELIMITATION OF CONSTITUENCIES

38. (1) The Election Commission shall, in the manner herein provided, distribute the seats assigned to the Legislative Assembly under section 3 to single-member territorial constituencies and delimit them having regard to the following provisions, namely:—

Election Commission to delimit constituencies.

(a) all constituencies shall, as far as practicable, be delimited in such manner that the ratio between the population of each of such constituencies and the total population of the Union territory is the same; and

(b) constituencies in which seats are reserved for the Scheduled Castes/Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is comparatively large.

(2) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies in the official Gazette and also in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, finalise delimitation of constituencies and cause such order or orders to be published in the official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

39. The Election Commission may, from time to time, by notification in the official Gazette,—

Power of Election Commission to maintain delimitations orders upto date.

(a) correct any printing mistakes in any order made under section 38 or any error arising therein from inadvertent slip or omission; and

(b) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up to date.

40. (1) For the purpose of constituting the Legislative Assembly, a general election will be held as soon as may be after the delimitation of all the assembly constituencies under section 38.

Election to the Legislative Assembly.

(2) For the purpose of sub-section (1), the Lieutenant Governor shall, by one or more notifications published in the official Gazette, call upon all the said assembly constituencies to elect members in accordance with the provisions of the Representation of the People Act, 1951 and of the rules and orders made or issued thereunder as applicable under sub-section (3).

43 of 1951

43 of 1950  
43 of 1951

(3) The Representation of the People Act, 1950, the Representation of the People Act, 1951 the rules and orders made or issued under the said Acts and all other laws for the time being in force relating to the elections shall apply with necessary modifications (including modifications for construing references therein to a State, State Government and Governor as including references to the Union territory, Government of the Union territory and Lieutenant Governor, respectively) to, and in relation to, the general election referred to in sub-section (1).

## PART IV

## CERTAIN PROVISIONS RELATING TO LIEUTENANT GOVERNOR AND MINISTERS

Matters in which Lieutenant Governor to act in his discretion.

41. (1) The Lieutenant Governor shall act in his discretion in a matter—

(i) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted or delegated to him by the President, or

(ii) in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions.

(2) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is by or under any law required to act in his discretion, the decision of the Lieutenant Governor thereon shall be final.

(3) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is required by any law to exercise any judicial or quasi-judicial functions, the decision of the Lieutenant Governor thereon shall be final.

Advice by Ministers.

42. The question whether any, and if so, what, advice was tendered by Ministers to the Lieutenant Governor shall not be inquired into in any court.

Other provisions as to Ministers.

43. (1) Before a Minister enters upon his office, the Lieutenant Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Schedule.

(2) A Minister who, for any period of six consecutive months, is not a member of the Legislative Assembly, at the expiration of that period, shall cease to be a Minister.

(3) The salaries and allowances of Ministers shall be such as the Legislative Assembly may from time to time by law determine and until the Legislative Assembly so determines, shall be determined by the Lieutenant Governor with the approval of the President.

Conduct of business.

44. (1) The President shall make rules—

(a) for the allocation of business to the Ministers in so far as it is business with respect to which the Lieutenant Governor is required to act on the aid and advice of his Council of Ministers; and

(b) for the more convenient transaction of business with the Ministers, including the procedure to be adopted in the case of a difference of opinion between the Lieutenant Governor and the Council of Ministers or a Minister.

(2) Save as otherwise provided in this Act, all executive action of the Lieutenant Governor whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the Lieutenant Governor.

(3) Orders and other instruments made and executed in the name of the Lieutenant Governor shall be authenticated in such manner as may be specified in rules to be made by the Lieutenant Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Lieutenant Governor.

Duties of Chief Minister as respects the furnishing of information, etc. to the Lieutenant Governor.

45. It shall be the duty of the Chief Minister—

(a) to communicate to the Lieutenant Governor all decisions of Council of Ministers relating to the administration of the affairs of the Union territory and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union territory and proposals for legislation as Lieutenant Governor may call for; and

(c) if the Lieutenant Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

## PART V

### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

46. (1) As from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, all revenues received in the Union territory by the Government of India or the Lieutenant Governor in relation to any matter with respect to which the Legislative Assembly has power to make laws, and all grants made and all loans advanced to the Union territory from the Consolidated Fund of India and all moneys received by the Union territory in repayment of loans shall form one Consolidated Fund to be entitled "the Consolidated Fund of the Union territory of Andaman and Nicobar Islands" (referred to in this Act as the Consolidated Fund of the Union territory).

Consolidated  
Fund of the  
Union  
territory.

(2) No moneys out of the Consolidated Fund of the Union territory shall be appointed except in accordance with and for the purposes and in the manner provided in this Act.

(3) The custody of the Consolidated Fund of the Union territory, the payment of moneys into such Fund, the withdrawal of moneys therefrom and all other matters connected with or ancillary to those matters shall be regulated by rules made by the Lieutenant Governor with the approval of the President.

47. (1) There shall be established a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the Union territory of Andaman and Nicobar Islands" into which shall be paid from and out of the Consolidated Fund of the Union territory such sums as may, from time to time be determined by law made by the Legislative Assembly; and the said Fund shall be held by the Lieutenant Governor to enable advances to be made by him out of such Fund.

Contingency  
Fund of the  
Union  
territory.

(2) No advances shall be made out of the Contingency Fund referred to in sub-section (1) except for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislative Assembly under appropriation made by law.

(3) The Lieutenant Governor may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys into and the withdrawal of moneys from the aforesaid Contingency Fund.

48. The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union territory for any period subsequent to the date referred to in sub-section (1) of section 46 shall be submitted to the Lieutenant Governor who shall cause them to be laid before the Legislative Assembly.

Audit reports.

49. Notwithstanding anything in this Act, the Lieutenant Governor and his Council of Ministers shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by the President.

Relation of  
Lieutenant  
Governor and  
his Ministers  
to President.

50. (1) Every order made by the President under article 239AB shall expire at the end of one year from the date of issue of the order and the provisions of clauses (2) and (3) of article 356 shall, so far as may be, apply to such order as they apply to a Proclamation issued under clause (1) of article 356.

Period of  
order made  
under article  
239AB and  
approval  
thereof by  
Parliament.

(2) Notwithstanding anything contained in sub-section (1), the President may extend the duration of the aforesaid order for a further period not exceeding two years from the date of expiry of the order under sub-section (1) subject to the condition that every extension of the said order for any period beyond the expiration of one year shall be approved by resolutions of both Houses of Parliament.

Authorisation  
of expenditure  
by President.

51. Where the Legislative Assembly is dissolved or its functioning as such Assembly remains suspended, on account of an order made by the President under article 239AB, it shall be competent for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the Union territory pending the sanction of such expenditure by Parliament.

Contracts and  
suits.

52. For the removal of doubts it is hereby declared that—

(a) all contracts in connection with the administration of the Union territory are contracts made in the exercise of the executive power of the Union; and

(b) all suits and proceedings in connection with the administration of the Union territory shall be instituted by or against the Government of India.

Power of  
President to  
remove  
difficulties.

53. (1) If any difficulty arises in relation to the transaction from the provisions of any law repealed by the Act or in giving effect to the provisions of this Act and in particular in relation to the constitution of the Legislative Assembly, the President may by order do anything not inconsistent with the provisions of the Constitution or of this Act which appear to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no order under the sub-section shall be made after the expiry of three years from the date of constitution of the first Legislative Assembly.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

Laying of  
Rules before  
Legislative  
Assembly.

54. Every rule made by the Lieutenant Governor under this Act shall be laid as soon as it is made, before the Legislative Assembly.

Amendments  
to the  
Constitution.

55. On and from the appointed day—

(a) after article 239AA, the following article shall be inserted, namely:—

"239AAA. (1) As from the date of commencement of the Government of Union territory of Andaman and Nicobar Islands Act, 2004 the administrator of the Union territory of Andaman and Nicobar Islands appointed under article 239 shall be designated as the Lieutenant Governor.

Special  
Provision  
with respect  
to Andaman  
and Nicobar  
Islands.

(2) The provisions of articles 239AA and 239AB shall, so far as may be, apply *mutatis mutandis* in relation to the Union territory of Andaman and Nicobar Islands, Lieutenant Governor and the Legislative Assembly, as they apply in relation to the National Capital Territory of Delhi and its Legislature, respectively."

(b) in article 240, in clause (1) for the existing proviso, the following provisos shall be substituted namely:—

"Provided that when any body is created under article 239A or 239AAA to function as a Legislature for the Union territory of Pondicherry or Union territory of Andaman and Nicobar Islands, as the case may be, the President shall not made any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature:

Provided further that whenever the body functioning as a Legislature for the Union Territory of Pondicherry or Andaman and Nicobar Islands, as the case may be, is dissolved, or the functioning of that body as such Legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A or 239AB, as the case may be, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union territory."

(c) In the Fourth Schedule to the Constitution, in the Table—

(a) Entries 26 and 27 shall be re-numbered as entries 27 and 28 respectively, and before entry 27 as so re-numbered, the following entry shall be inserted, namely:—

"26. Andaman and Nicobar Islands....1";

(b) for the figures "233", the figures "234" shall be substituted.

56. In section 27A of the Representation of People Act, 1950, after sub-section (4), the following sub-section shall be inserted namely:—

Amendment  
of section  
27A of Act  
43 of 1950.

"(5) The electoral college for the Union territory of Andaman and Nicobar Islands shall consist of the elected members of the Legislative Assembly constituted for the territory under the Government of Union Territory of Andaman and Nicobar Islands Act, 2004.

THE SCHEDULE

(See sections 4, 12 and 43)

FORMS OF OATH OR AFFIRMATIONS

I

Form of oath or affirmation to be made by a candidate for election to the Legislative Assembly:—

"I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

II

Form of Oath or affirmation to be made by a member of the Legislative Assembly:—

"I, A.B., having been elected a member of the Legislative Assembly, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."

III

Form of Oath of office of a member of the Council of Ministers:—

"I, A.B., do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister, and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will."

IV

Form of Oath of Secrecy for a member of the Council of Ministers:—

"I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister except as may be required for the due discharge of any duties as such Minister."

## STATEMENT OF OBJECTS AND REASONS

Even after 57 years of Independence, the Union territory of Andaman and Nicobar Islands has not been provided with a democratic set-up with a Legislative Assembly for the governance of the affairs of the Union territory Administration. All powers are vested in the Lieutenant Governor and the bureaucracy continues to reign supreme. In the absence of a Legislative Assembly with devolution of powers, the people of the Islands are not enabled to have a sense of belonging and involvement in the developmental activities of the Islands and do not have a say in the utilisation of the funds provided by the Central Government, in proper perspective.

The type of Pradesh Council provided to the Union territory with members indirectly elected from panchayats and a single municipality with no powers is not at all befitting to a democratic set-up and devolution of powers. However, the functioning of the Pradesh Council since its formation in the year 1981 has set the background for constitution of a Legislative Assembly on the pattern of Pondicherry or Delhi. The population of the Union territory has crossed three-lakh mark and the literacy percentage is more than 81 per cent and heading towards achieving cent per cent literacy as per norms prescribed by the Government of India.

There have been series of demands from the people of the Union territory for providing a Legislative Assembly at least with limited powers. The Island Development Authority had agreed in principle to constitute a Legislative Assembly for the Islands. The Estimates Committee of the Parliament had also recommended for the constitution of a Legislative Assembly for the Union territory. Now, since a three-tier Panchayati Raj system is also in the offing in pursuance of the Constitution (Seventy-third) Amendment Act with the idea of devolution of powers at panchayat, block and district levels, it is high time that a Legislative Assembly was provided to set the tone and direction for the governance of the Union territory Administration on democratic norms.

The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;  
July 5, 2004

BASUDEB ACHARIA.

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Legislative Assembly for the Union territory of Andaman and Nicobar Islands, Clauses 7(5), 19 and 43(3) related to payment of salaries and allowances to the Speaker, the Deputy Speaker, Members of the Legislature and the Ministers. The expenditure on such salaries and allowances and other expenditure of incidental nature such as on the additional staff in the Legislative Assembly and Council of Ministers will be met from the Consolidated Fund of the Union territory of Andaman and Nicobar Islands.

Clause 38 provides for the delimitation of thirty single member territorial constituencies for the proposed Assembly of the Union territory of Andaman and Nicobar Islands. Clause 55 provides that Union territory of Andaman and Nicobar Islands will be represented by one member in the Council of States. For this purpose, a non-recurring expenditure of about rupees twenty lakhs is likely to be incurred. This expenditure will be met from the Consolidated Fund of India.

The Bill does not involve any other expenditure either of a recurring or non-recurring nature.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill empowers the Legislative Assembly of the Union territory of Andaman and Nicobar Islands to make rules, subject to the provisions of this Bill, for regulating its procedure and conduct of its business. It also provides that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President make rules for securing the completion of the financial business, regulating the procedure and conduct of business in the Legislative Assembly in relation to any financial matter or to any Bill for appropriation of monies out of the Consolidated Fund of the Union territory of Andaman and Nicobar Islands and for prohibiting the discussion of or asking any question which affect the discharge of the functions of the Lieutenant Governor in so far as he is required to act in his discretion.

Clause 44 of the Bill empowers the President to make rules regarding allocation of business to Ministers and transaction of such business. It further empowers the Lieutenant Governor to make rules prohibiting the manner of authenticating the orders issued in his name.

Clause 46(3) and 47(3) of the Bill provide that the Lieutenant Governor may make rules regarding the custody, etc., of the Consolidated Fund of the Union territory of Andaman and Nicobar Islands and the Contingency Fund of the Union territory of Andaman and Nicobar Islands.

Clause 53 of the Bill empowers the President to issue orders for removing any difficulty in giving effect to the provisions of this Bill and in particular in relation to the constitution of the Legislative Assembly.

The matters mentioned above are of a procedural nature and it is difficult to provide for them in detail in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 83 OF 2004

*A Bill to provide for the creation of a Legislative Assembly for the Union Territory of Lakshadweep and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

## PART I

## PRELIMINARY

Short title and  
Commence-  
ment.

1. (1) This Act may be called the Government of Union Territory of Lakshadweep Act, 2004.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of the Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “article” means an article of the Constitution;



(b) "assembly constituency" means a constituency provided under this Act for the purpose of election to the Legislative Assembly;

(c) "Election Commission" means the Election Commission referred to in article 324;

(d) "Legislative Assembly" means the Legislative Assembly of the Union territory of Lakshadweep;

(e) "Scheduled Castes/Scheduled Tribes" in relation to the Union territory means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under articles 341 and 342 of the Constitution to be Scheduled Caste or Scheduled Tribe in relation to that Union territory; and

(f) "Union territory" means the Union territory of Lakshadweep.

## PART II

### LEGISLATIVE ASSEMBLY

3. (1) The total number of seats in the Legislative Assembly to be filled by persons chosen by direct election from territorial constituencies shall be forty.

Legislative  
Assembly and  
its  
composition.

(2) For the purposes of election to the Legislative Assembly, the Union territory shall be divided into single-member assembly constituencies in accordance with the provisions of Part III in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Union territory.

(3) Seats shall be reserved for the Scheduled Castes and Scheduled Tribes in the Legislative Assembly, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes or Scheduled Tribes in the Union territory bears to the total population of the Union territory.

4. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he,—

Qualifications  
for  
membership  
of Legislative  
Assembly.

(a) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Schedule;

(b) is not less than twenty-five years of age; and

(c) possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

5. The Legislative Assembly unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Duration of  
Legislative  
Assembly.

Provided that the said period may be extended as while a proclamation of emergency issued under clause (1) of article 352 is in operation, by the President by order for a period not exceeding one year at a time and not extending it in any case beyond a period of six months after the proclamation has ceased to operate.

6. (1) The Lieutenant Governor shall, from time to time, summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

Session of  
Legislative  
Assembly,  
prorogation  
and  
dissolution.

(2) The Lieutenant Governor may, from time to time,—

(a) prorogue the Assembly; and

(b) dissolve the Assembly.

Speaker and  
Deputy  
Speaker of  
Legislative  
Assembly.

7. (1) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(2) A member holding office as Speaker or Deputy Speaker of the Legislative Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may, at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker resign his office; and

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(3) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker, if the office of Deputy Speaker is also vacant, by such member of the Assembly as may be determined by the rules of procedure of the Assembly.

(4) During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker, or if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

Speaker or  
Deputy  
Speaker not to  
preside while a  
resolution for  
his removal  
from office  
is under  
consideration.

8. (1) At any sitting of the Legislative Assembly while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of sub-section (4) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker is absent.

(2) The Speaker shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 13, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Right of  
Lieutenant  
Governor to  
address and  
send message  
to Legislative  
Assembly.

9. (1) The Lieutenant Governor may address the Legislative Assembly and for that purpose require the attendance of members.

(2) The Lieutenant Governor may send message to the Legislative Assembly whether with respect to a Bill then pending in the Assembly or otherwise and when a message is so sent, the Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

10. (1) At the commencement of the first session after each general election to the Legislative Assembly at the commencement of the first session of each year, the Lieutenant Governor shall address the Legislative Assembly and inform it of the causes of its summons.

Special address by the Lieutenant Governor.

(2) Provision shall be made by rules to be made by the Assembly regulating its procedure for the allotment of time for discussion of the matters referred to in such address.

11. Every Minister who is not a member of the Legislative Assembly shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly and to speak in and otherwise to take part in the proceedings of any committee of the Legislative Assembly which he may be named a member, but shall not by virtue of this section be entitled to vote.

Rights of Ministers as respects Legislative Assembly.

12. Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Lieutenant Governor or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule.

Oath or affirmation by member.

13. (1) Save as otherwise provided in the Act, question at any sitting of the Legislative Assembly shall be determined by a majority of votes of the members present and voting other than the Speaker or person acting as such.

Voting in Legislative Assembly, Power of Assembly to act notwithstanding vacancies and quorum.

(2) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(3) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(4) The quorum to constitute a meeting of the Assembly shall be one-third of the total number of members of the Assembly.

(5) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker, or person acting as such either to adjourn the Assembly or to suspend the meeting until there is a quorum.

14. (1) No person shall be a member both of Parliament and of the Legislative Assembly and if a person is chosen a member both of Parliament and of such Assembly, then at the expiration of such period as is specified in or under the Representation of the People Act, 1951, and the rules made by the President under clause (2) of article 190, that person's seat in Parliament shall become vacant, unless he had previously resigned his seat in the Legislative Assembly.

Vacation of seats.

(2) If a member of the Legislative Assembly—

(a) becomes subject to any disqualification mentioned in section 15 or section 16 for membership of the Assembly; or

(b) resigns his seat by writing under his hand addressed to the Speaker and his resignation is accepted by the Speaker,

his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to in clause (b), if from the information received or otherwise and after making such inquiry as he thinks fit, the Speaker is satisfied that such resignation is not voluntary or genuine he shall not accept such resignation.

(3) If for a period of sixty days a member of the Legislative Assembly is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Assembly is prorogued or is adjourned for more than four consecutive days.

Disqualification  
for  
membership.

**15. (1)** A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly—

(a) if he holds any office of profit under the Government of India or the Government of any State or the Government of any Union territory other than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of any other Union territory not to disqualify its holder; or

(b) if he is for the time being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (b) or sub-clause (c) of sub clause (1) of article 102 or of any law made in pursuance of that article.

(2) For the purpose of the section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of any Union territory by reason only that he is a Minister either for the Union or for such State or Union territory.

(3) If any question arises as to whether a member of the Legislative Assembly has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the President and his decision shall be final.

(4) Before giving any decision on any such question; the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

Disqualification  
on ground of  
defection.

**16.** The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modification (including modifications for construing references therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly, section 12, section 18 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly of a State and accordingly:—

(a) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and

(b) a person shall be disqualified for being a member of the Legislative Assembly if he is so disqualified under the said Tenth Schedule as so modified.

Penalty for  
sitting and  
voting before  
making oath  
or affirmation  
or when not  
qualified or  
when  
disqualified.

**17.** If a person sits or votes as a member of the Legislative Assembly before he has complied with requirements of section 12 or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

Powers,  
Privileges,  
etc., of  
members.

**18. (1)** Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly.

(2) No member of the Legislative Assembly shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislative Assembly or any committee thereof and no person shall be so liable in respect of the publication by or under the authority of such Assembly of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as are for the time being enjoyed by the House of the People and its members and committees.

(4) The provisions of sub-section (1), (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings, of the Legislative Assembly or any committee thereof as they apply, in relation to members of that Assembly.

19. Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time determine by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

Salaries and allowances of members.

20. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempted from all taxes imposed by or under any law made by the Legislative Assembly or by under any other law in force in the Union territory:

Exemption of property of the Union from taxation.

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent any authority within the Union territory from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable, so long as the tax continues to be levied in the Union territory.

21. (1) The provisions of articles 286, 287 and 288 shall apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in those articles as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

Restrictions on laws passed by Legislative Assembly with respect to certain matters.

(2) The provisions of article 304 shall, with the necessary modifications, apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in that article as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

22. (1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly except on the recommendation of the Lieutenant Governor if such bill or amendment makes provision for any of the following matters, namely:—

Special provisions as to Financial Bills.

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Union territory;

(c) the appropriation of moneys out of the Consolidated Fund of the Union territory;

(d) the declaring of any expenditure to the expenditure charged on the Consolidated Fund of the Union territory or the increasing of the amount of any such expenditure; and

(e) the receipt of money on account of the Consolidated Fund of the Union territory or the custody of such money:

Provided that no recommendation shall be required, under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for license or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of the Union territory shall not be passed by the Legislative Assembly unless the Lieutenant Governor has recommended to that Assembly the consideration of the Bill.

Procedure as  
to lapsing of  
Bills.

23. (1) A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly.

(2) A Bill which is pending in the Legislative Assembly shall lapse on a dissolution of the Assembly.

Assent to  
Bills.

24. When a Bill has been passed by the Legislative Assembly it shall be presented to the Lieutenant Governor and he shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Lieutenant Governor may, as soon as possible after the presentation of the Bill for his assent, return the Bill if it is not a Money Bill together with a message requesting that the Assembly will reconsider the Bill or any specified provisions thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Assembly will reconsider the Bill accordingly, and if the Bill is passed again with or without amendment and presented to the Lieutenant Governor for assent, he shall declare either that he assents, to the Bill or that he reserves the Bill for the consideration of the President:

Provided further that the Lieutenant Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which,—

(a) in the opinion of the Lieutenant Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is, by the Constitution, designed to fill; or

(b) the President may, by order, direct to be reserved for his consideration; or

(c) relates to a matter referred to in sub-section (5) of section 7 or section 19 or section 34 or sub-section (3) of section 43.

*Explanation.*—For the purposes of this section and section 25, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of section 22 or any matter incidental to any of those matters and, in either case, there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

Bills reserved  
for  
consideration.

25. When a Bill is reserved by the Lieutenant Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that where the Bill is not a money Bill, the President may direct the Lieutenant Governor to return the Bill to the Legislative Assembly together with such a message as is mentioned in the first proviso to section 24 and, when a Bill is so returned, the Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the Assembly with or without amendment it shall be presented again to the President for his consideration.

Requirements  
as to  
sanction, etc.

26. No Act of the Legislative Assembly, and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation required by this Act was not given, if assent to that Act was given by the Lieutenant Governor or, one being reserved by the Lieutenant Governor for the consideration of the President, by the President.

Annual  
financial  
statement.

27. (1) The Lieutenant Governor shall in respect of every financial year cause to be laid before the Legislative Assembly, with the previous sanction of the President, a statement of the estimated receipts and expenditure of the Union territory for the year, in this part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of the Union territory; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the Union territory and shall distinguish expenditure on revenue account from other expenditure.

(3) Notwithstanding anything contained in any law for the time being in force, the following expenditure shall be expenditure charged on the Consolidated Fund of the Union territory:—

(a) the emoluments and allowances of the Lieutenant Governor and other expenditure relating to his office as determined by the President by general or special order;

(b) the charges payable in respect of loans advanced to the Union territory from the Consolidated Fund of India including interest, sinking fund charges and redemption charges and other expenditure connected therewith;

(c) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(d) any sums required to satisfy any judgement, decree or award of any court or arbitrator or tribunal; and

(e) any other expenditure declared by the Constitution or by law made by Parliament or by the Legislative Assembly to be so charged.

28. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of the Union territory shall not be submitted to the vote of the Legislative Assembly but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

Procedure in  
Legislative  
Assembly  
with respect  
to estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have the power to assent or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Lieutenant Governor.

29. (1) As soon as may be after the grants under section 28 have been made by the Legislative Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Union territory of all moneys required to meet—

Appropriation  
Bills.

(a) the grants so made by the Assembly; and

(b) the expenditure charged on the Consolidated Fund of the Union territory but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant made or of varying the amount of any expenditure charged on the Consolidated Fund of the Union territory and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Union territory except under appropriation made by law passed in accordance with provisions of this section.

30. (1) The Lieutenant Governor shall,—

(a) if the amount authorised by any law made in accordance with provisions of section 29 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the

Supplementary,  
additional or  
excess grants.

current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the Legislative Assembly, with the previous sanction of the President, another Statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly with such previous sanction a demand for such excess, as the case may be.

(2) The provisions of sections 27, 28 and 29 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of money out of the Consolidated Fund of the Union territory to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or grant.

Votes on  
account.

31. (1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 28 for the voting of such grant and passing of the law in accordance with the provisions of section 29 in relation to that expenditure and the Legislative Assembly shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the Union territory for the purposes for which the said grant is made.

(2) The provisions of sections 28 and 29 shall have effect in relation to the making of any grant under sub-section (1) or to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys, out of the Consolidated Fund of the Union territory to meet such expenditure.

Authorisation  
of expenditure  
pending its  
sanction by  
Legislative  
Assembly.

32. Notwithstanding anything in the foregoing provisions of this Part, the Lieutenant Governor may authorise such expenditure from the Consolidated Fund of the Union territory as he deems necessary for a period of not more than six months beginning from the date of the constitution of the Consolidated Fund of the Union territory, pending the sanction of such expenditure by the Legislative Assembly.

Rules of  
Procedure.

33. (1) The Legislative Assembly may make rules regulating, subject to the provisions of this Act, its procedure and the conduct of its business:

Provided that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules—

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Union territory;

(c) for prohibiting the discussion of, or the asking of questions on, any matters which affects the discharge of the functions of the Lieutenant Governor in so far as he is required by or under this Act or any law to act in his discretion.

(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect of the Legislative Assembly of the State of Uttar Pradesh in force immediately before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as may be made therein by the Lieutenant Governor.



34. (1) The Legislative Assembly may by law adopt any one or more of the languages in use in the Union territory or Hindi as the official language or languages to be used for all or any of the official purposes of the Union territory:

Official language or languages of the Union territory and language or languages to be used in Legislative Assembly.

Provided that the President may by order direct—

(i) that the official language of the Union shall be adopted for such of the official purposes of the Union territory as may be specified in the order; and

(ii) that any other language shall also be adopted throughout the Union territory or such part thereof for such of the official purposes of the Union territory as may be specified in the order, if the President is satisfied that a substantial proportion of the population of the Union territory desires the use of that other language for all or any of such purposes.

(2) The business in the Legislative Assembly shall be transacted in the official language or languages of the Union territory or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or the person acting as such, as the case may be, permit any member who cannot adequately express himself in any of the languages aforesaid, to address the Assembly in his mother-tongue.

35. Notwithstanding anything contained in section 34 until Parliament by law otherwise provides, the authoritative texts—

Languages to be used for Bills, Acts, etc.

(a) of all Bills to be introduced or amendments thereto to be moved in the Legislative Assembly;

(b) of all Acts passed by the Legislative Assembly; and

(c) of all orders, rules regulations and bye-laws issued under any law made by the Legislative Assembly shall be in English language:

Provided that where the Legislative Assembly has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by the Legislative Assembly or in any order, rule regulation or bye-law issued under any law made by the Legislative Assembly, a translation of the same in the English language published under the authority of the Lieutenant Governor in the official Gazette shall be deemed to be the authoritative text thereof in the English language.

36. No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties:

Restrictions on discussion in the legislative Assembly.

37. (1) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

Courts not to inquire into proceedings of Legislative Assembly.

(2) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

### PART III

#### DELIMITATION OF CONSTITUENCIES

38. (1) The Election Commission shall, in the manner herein provided, distribute the seats assigned to the Legislative Assembly under section 3 to single-member territorial constituencies and delimit them having regard to the following provisions, namely:—

Election Commission to delimit constituencies.

(a) all constituencies shall, as far as practicable, be delimited in such manner that the ratio between the population of each of such constituencies and the total population of the Union territory is the same; and

(b) constituencies in which seats are reserved for the Scheduled Castes or Scheduled Tribes shall, as far as possible, be located in areas where the proportion of the population to the total population is comparatively large.

(2) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies in the official Gazette and also in such other manner as the Commission may consider fit together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which their proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified; and

(c) after considering all objections and suggestions which may have been received by it before the date so specified, finalise delimitation of constituencies and cause such order or orders to be published in the official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

Power of  
Election  
Commission  
to maintain  
delimitation  
orders up to  
date.

39. The Election Commission may, from time to time, by notification in the official Gazette,—

(a) correct any printing mistakes in any order made under section 38 or any error arising therein from inadvertent slip or omission; and

(b) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up to date.

Election to the  
Legislative  
Assembly.

40. (1) For the purpose of constituting the Legislative Assembly, a general election will be held as soon as may be after the delimitation of all the assembly constituencies under section 38.

(2) For the purposes of sub-section (1), the Lieutenant Governor shall, by one or more notifications published in the official Gazette, call upon all the said assembly constituencies to elect members in accordance with the provisions of the Representation of the People Act, 1951 and of the rules and orders made or issued thereunder as applicable under sub-section (3).

43 of 1951

(3) The Representation of People Act, 1950, the Representation of the People Act, 1951 the rules and orders made or issued under the said Acts and all other laws for the time being in force relating to the elections shall apply with necessary modifications (including modifications for construing references therein to a State, State Government and Governor as including references to the Union territory, Government of the Union territory and Lieutenant Governor, respectively) to, and in relation to, the general election referred to in sub-section (1).

43 of 1950

43 of 1951

#### PART IV

##### CERTAIN PROVISIONS RELATING TO LIEUTENANT GOVERNOR AND MINISTERS

Matters in  
which  
Lieutenant  
Governor to  
act in his  
discretion.

41. (1) The Lieutenant Governor shall act in his discretion in a matter—

(i) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted or delegated to him by the President, or

(ii) in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions.

(2) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is by or under any law required to act in his discretion, the decision of the Lieutenant Governor thereon shall be final.

(3) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is required by any law to exercise any judicial or quasi-judicial functions, the decision of the Lieutenant Governor thereon shall be final.

42. The question whether any, and if so what, advice was tendered by Ministers to the Lieutenant Governor shall not be inquired into in any court.

Advice by  
Ministers.

43. (1) Before a Minister enters upon his office, the Lieutenant Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Schedule.

Other  
provisions as  
to Ministers.

(2) A Minister who, for any period of six months, is not a member of the Legislative Assembly, at the expiration of that period, shall cease to be a Minister.

(3) The salaries and allowances of Ministers shall be such as the Legislative Assembly may from time to time by law determine and until the Legislative Assembly so determines, shall be determined by the Lieutenant Governor with the approval of the President.

44. (1) The President shall make rules—

Conduct of  
business.

(a) for the allocation of business to the Ministers in so far as it is business with respect to which the Lieutenant Governor is required to act on the aid and advice of his Council of Ministers; and

(b) for the more convenient transaction of business with the Ministers, including the procedure to be adopted in the case of a difference of opinion between the Lieutenant Governor and the Council of Ministers or a Minister.

(2) Save as otherwise provided in this Act, all executive actions of the Lieutenant Governor whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the Lieutenant Governor.

(3) Orders and other instruments made and executed in the name of the Lieutenant Governor shall be authenticated in such manner as may be specified in rules to be made by the Lieutenant Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Lieutenant Governor.

45. It shall be the duty of the Chief Minister—

Duties of  
Chief  
Minister as  
respects the  
furnishing of  
information,  
etc. to the  
Lieutenant  
Governor.

(a) to communicate to the Lieutenant Governor all decisions of Council of Ministers relating to the administration of the affairs of the Union territory and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union territory and proposals for legislation as Lieutenant Governor may call for; and

(c) if the Lieutenant Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

## PART V

### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

46. (1) As from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, all revenues received in the Union territory by the Government of India or the Lieutenant Governor in relation to any matter with respect to which the Legislative Assembly has power to make laws, and all grants made and all loans advanced to the Union territory from the Consolidated Fund of India and all moneys received by the Union territory in repayment of loans shall form one Consolidated Fund to be entitled "the Consolidated Fund of the Union territory of Lakshadweep" (referred to in this Act as the Consolidated Fund of the Union territory).

Consolidated  
Fund of the  
Union  
territory.

(2) No moneys out of the Consolidated Fund of the Union territory shall be appropriated except in accordance with and for the purposes and in the manner provided in the Act.

(3) The custody of the Consolidated Fund of the Union territory, the payment of moneys into such fund, the withdrawal of moneys therefrom and all other matters connected with or ancillary to those matters shall be regulated by rules made by the Lieutenant Governor with the approval of the President.

Contingency Fund of the Union territory.

47. (1) There shall be established a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the Union territory of Lakshadweep" into which shall be paid from and out of the Consolidated Fund of the Union territory such sums as may, from time to time be determined by law made by the Legislative Assembly; and the said Fund shall be held by the Lieutenant Governor to enable advances to be made by him out of such Fund.

(2) No advances shall be made out of the Contingency Fund referred to in sub-section (1) except for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislative Assembly under appropriation made by law.

(3) The Lieutenant Governor may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys in to, and the withdrawal of moneys from the aforesaid Contingency Fund.

Audit Reports.

48. The reports of the Comptroller and Auditor General of India relating to the accounts of the Union territory for any period subsequent to the date referred to in sub-section (1) of section 46 shall be submitted to the Lieutenant Governor who shall cause them to be laid before the Legislative Assembly.

Relation of Lieutenant Governor and his Ministers to President.

49. Notwithstanding anything in this Act, the Lieutenant Governor and his Council of Ministers shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given, by the President.

Period of order made under article 239AB and approval thereof by Parliament.

50. (1) Every order made by the President under article 239AB shall expire at the end of one year from the date of issue of the order and the provisions of clauses (2) and (3) of article 356 shall, so far may be, apply to such order as they apply to a proclamation issued under clause (1) of article 356.

(2) Notwithstanding anything contained in sub-section (1), the President may extend the duration of the aforesaid order for a further period not exceeding two years from the date of expiry of the order under sub-section (1) subject to the condition that every extension of the said order for any period beyond the expiration of one year shall be approved by resolutions of both Houses of Parliament.

Authorisation of expenditure by President.

51. Where the Legislative Assembly is dissolved or its functioning as such Assembly remains suspended on account of an order made by the President under article 239AB, it shall be competent for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the Union territory pending the sanction of such expenditure by Parliament.

Contracts and suits.

52. For the removal of doubts it is hereby declared that—

(a) all contracts in connection with the administration of the Union territory are contracts made in the exercise of the executive power of the Union; and

(b) all suits and proceedings in connection with the administration of the Union territory shall be instituted by or against the Government of India.

Power of President to remove difficulties.

53. (1) If any difficulty arises in relation to the transaction from the provisions of any law repealed by the Act or in giving effect to the provisions of this Act and in particular in relation to the constitution of the Legislative Assembly, the President may by order to anything not inconsistent with the provisions of the Constitution or of this Act which appear to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no order under the sub-section shall be made after the expiry of three years from the date of constitution of the first Legislative Assembly.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

54. Every rule made by the Lieutenant Governor under this Act shall be laid, as soon as it is made, before the Legislative Assembly.

Laying of  
rules before  
Legislative  
Assembly.

55. On and from the appointed day—

Amendments  
to the  
Constitution.

(a) After article 239AA, the following article shall be inserted, namely:—

“239AAA (1) As from the date of commencement of the Government of Union territory of Lakshadweep Act, 2004 the administrator of the Union territory of Lakshadweep appointed under article 239 shall be designated as the Lieutenant Governor.

Special  
provision with  
respect to  
Lakshadweep.

(2) The provisions of article 239AA and 239AB shall, so far as may be, apply *mutatis mutandis* in relation to the Union territory of Lakshadweep, Lieutenant Governor and the Legislative Assembly, as they apply in relation to the National Capital Territory of Delhi and its Legislature, respectively.”;

(b) in article 240, in clause (1), for the existing proviso, the following provisos shall be substituted namely:—

“Provided that when any body is created under article 239A or 239AAA to function as a Legislature for the Union territory of Pondicherry or Union territory of Lakshadweep, as the case may be, the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature:

Provided further that whenever the body functioning as a Legislature for the Union territory of Pondicherry or Lakshadweep, as the case may be, is dissolved, or the functioning of that body as such legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239 A or 239AB, as the case may be, the President may, during the period of such dissolution or suspension, make regulations for the peace progress and good government of that Union territory.”

(c) In the Fourth Schedule to the Constitution, in the Table,

(a) entry 30 shall be re-numbered as entry 31 and before entry 31 as so re-numbered, the following entry shall be inserted, namely:—

“30. Lakshadweep ..... 1”;

(b) for the figures “233”, the figures “234” shall be substituted.

43 of 1950.

56. In section 27A of the Representation of People Act, 1950, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The electoral college for the Union territory of Lakshadweep shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of Union territory of Lakshadweep Act, 2004.

Amendment  
of section  
27A of Act  
43 of 1950.

## THE SCHEDULE

(See sections 4, 12, and 43)

## FORMS OF OATH OR AFFIRMATIONS

## I

Form of oath or affirmation to be made by a candidate for election to the Legislative Assembly:—

"I, AB, having been nominated as a candidate to fill a seat in the Legislative Assembly, do swear in the name of God/solemnly affirm that I bear true faith and Allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

## II

Form of oath or affirmation to be made by a member of the Legislative Assembly:—

"I, AB, having been elected a member of the Legislative Assembly, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully discharge the duty upon which I am about to enter".

## III

Form of oath of office of a member of the Council of Ministers:—

"I, AB, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister, and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will."

## IV

Form of oath of Secrecy for a member of Council of Ministers:—

"I, AB, do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister except as may be required for the due discharge of any duties as such Minister."

## STATEMENT OF OBJECTS AND REASONS

Even after 57 years of Independence, the Union territory of Lakshadweep has not been provided with a democratic set-up with a Legislative Assembly for the governance of the affairs of the Union territory Administration. All powers are vested in the Lieutenant Governor and the bureaucracy continues to reign supreme. In the absence of Legislative Assembly with devolution of powers, the people of the islands are not enabled to have a sense of belonging and involvement in the development activities of the islands and do not have a say in the utilisation of the funds provided by the Central Government in proper perspective.

The type of administration provided to the Union territory is not at all befitting to a democratic set-up and devolution of powers. The population of the Union territory has crossed four lakhs mark and the literacy percentage is well over the national average and is steadily heading towards achieving cent percent literacy as per norms prescribed by the Government of India.

However, despite all these favourable points the people of the Union territory did not get administrative set-up of their own choice mainly due to unforeseen views of the Central Government. They deserve a political set-up in the same line as Delhi, Pondicherry and the like are having.

There have been series of demands from the people of the Union territory for providing a Legislative Assembly on the line of the set-up in Delhi and Pondicherry. The people of the island territory are unanimous in this regard. Now, since a three-tier Panchayati Raj system is also in offing in pursuance with the Constitution (Seventy-third Amendment) Act, with the idea of devolution of powers at Panchayat, block and district levels, it is high time that a Legislative Assembly was provided to set the tone and direction for the governance of the Union territory Administration on democratic norms.

The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;  
July 5, 2004

BASUDEB ACHARIA.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Legislative Assembly for the Union territory of Lakshadweep. Clauses 7(5), 19 and 43(3) relate to payment of salaries and allowances to the Speaker, the Deputy Speaker, Members of the Legislative Assembly and the Ministers. The expenditure on such salaries and allowances and other expenditure of incidental nature such as on the additional staff in the Legislative Assembly and Council of Ministers will be met from the Consolidated Fund of the Union territory of Lakshadweep.

Clause 38 provides for the delimitation of thirty single member territorial constituencies for the proposed Assembly of the Union territory of Lakshadweep. Clause 55 provides that Union territory of Lakshadweep will be represented by one member in the Council of States. For this purpose, a non-recurring expenditure of about rupees fifteen lakhs is likely to be incurred. This expenditure will be met from the Consolidated Fund of India.

The Bill does not involve any other expenditure either of a recurring or non-recurring nature.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill empowers the Legislative Assembly of the Union territory of Lakshadweep to make rules, subject to the provisions of this Bill, for regulating its procedure and conduct of its business. It also provides that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President make rules for securing the completion of the financial business, regulating the procedure and conduct of business in the Legislative Assembly in relation to any financial matter or to any Bill for appropriation of moneys out of the Consolidated Fund of the Union territory of Lakshadweep and for prohibiting the discussion of or asking any question which affect the discharge of the functions of the Lieutenant Governor in so far as he is required to act in his discretion.

Clause 44 empowers the President to make rules regarding allocation of business to Ministers and transactions of such business. It further empowers the Lieutenant Governor to make rules providing the manner of authenticating the orders issued in his name.

Clause 46(3) and 47(3) provide that the Lieutenant Governor may make rules regarding the custody etc. of the Consolidated Fund of the Union territory of Lakshadweep and the Contingency Fund of the Union territory of Lakshadweep.

Clause 53 empowers the President to issue orders for removing any difficulty in giving effect to the provisions of this Bill and in particular in relation to the constitution of the Legislative Assembly.

The matters mentioned above are of a procedural nature and it is difficult to provide for them in the Bill itself. The delegation of Legislative power is, therefore, of a normal character.



## BILL NO. 91 OF 2004

*A Bill to amend the Electricity Act, 2003.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Electricity (Amendment) Act, 2004.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 3 of the Electricity Act, 2003 (hereinafter referred to as the principal Act), for sub-sections (1), (2) and (3), the following sub-sections shall be substituted, namely:—

Amendment  
of section 3.

“3. (1) The Authority shall, from time to time, prepare the National Electricity Policy and tariff policy, in consultation with the State Governments for development of the power system based on optimal utilization of resources such as coal, natural gas, nuclear substances or materials, hydro and renewable sources of energy and submit the same to the Central Government for its approval.

National  
Electricity  
Policy.

(2) The Central Government shall, after its approval, publish the National Electricity Policy and tariff policy once in five years.

(3) The Authority may, from time to time, in consultation with the State Governments, review or revise the National Electricity Policy and tariff policy referred to in sub-section (1)."

Substitution of new section for section 5.

3. For section 5 of the Principal Act, the following section shall be substituted namely:—

Establishment of a Rural Electrification Board.

**"5. The Central Government shall establish a Rural Electrification Board in consultation with the State Governments for electrification in rural areas."**

Substitution of new section 6.

4. For section 6 of the Principal Act, the following section shall be substituted, namely:—

Obligations to supply electricity to rural areas.

**"6. (1) The Central Government and the appropriate Government shall endeavour to supply electricity to all areas including villages and hamlets.**

**(2) The Central Government and the respective State Governments shall share the cost of providing electricity in rural areas of the respective State in such proportion as may be agreed upon."**

Substitution of new section for section 7.

5. For section 7 of the Principal Act, the following section shall be substituted, namely:—

Generating company and requirement for setting up of generating station.

**"7. Any generating company may establish, operate and maintain a generating station if it gets the techno-economic clearance from the Authority and shall also obtain the clearance from the respective State Government."**

Amendment of section 61.

6. In section 61, after clause (i), the following clauses shall be inserted, namely:—

**"(j) the principle of continuation of cross subsidy;**

**(k) subsidy, if any, required to be paid to any class of consumers shall be equally shared by the Central and the respective State Governments."**

## STATEMENT OF OBJECTS AND REASONS

Every society evolves legislation through an evolutionary process accommodating new concepts and technologies in order to use resources consistent with its social needs. The Electricity Act, 2003, needs to be amended to make it meet the aspirations of the people.

As a first step the State Electricity Boards should not be liquidated and handed over to the private sector. Removal of subsidies and guarantee of profits to the Multi National Electricity Companies have resulted in the denial of supply of power to rural areas and the disadvantaged sections in urban areas. Elimination of cross subsidization is causing adverse impact. In a country where thirty per cent of population is living below poverty line, the cross subsidization should continue.

To have balanced policy and to avoid any arbitrary decisions while formulating the policy, it is strongly felt that policy should be drafted by Central Electricity Authority in consultation with States and thereafter be approved and notified by the Central Government. The techno-economic appraisal/clearance (TEA) by the Central Electricity Authority is neither an administrative approval nor any licensing but this is a process of optimization of project parameters for maximization of overall benefits from the projects, which has direct bearing over tariff. In fact in today's scenario, with the entry of large number of players in the power sector, it is required that all the power generation projects should be thoroughly examined by the Central Electricity Authority for optimal utilization of national resources and protection of consumers' interest.

The emphasis of the Electricity Act is to provide electricity in urban areas and no responsibility has been cast to assess the demand and supply of electricity in rural areas especially when all the villages are to be electrified by the year 2007 and 80000 villages, which cannot be connected to grid, are to be electrified by 2012. Taking into consideration that all the State Governments are reeling under financial crunch, financial resources are to be appropriated in a fixed share so that both Union Government and State Government may make substantial investment in the electrification of rural India.

In fact the electricity Act is based on the California type model, which has failed miserably leading to soaring prices, rolling blackouts and laying off of thousands of workers.

As per the Constitution of India Electricity is a subject under the concurrent list. The State Governments/Union territory administrations are answerable to the people of their States for consistent quality power supply at an affordable price.

The Bill seeks to achieve the above objectives.

NEW DELHI;

BASUDEB ACHARIA.

July 5, 2004

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall establish Rural Electrification Board for electrification in rural areas. Clause 6 provides that the Central Government shall share the financial burden with State Governments for providing electricity in rural areas. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. As regards the financial burden of State Governments in extending electricity to rural areas, it shall be borne out of the Consolidated Funds of the respective States. It is likely to involve an annual recurring expenditure of about rupees ten thousand crore from the Consolidated Fund of India. A non-recurring expenditure of about rupees one thousand crore is also likely to be involved.

## BILL NO. 45 OF 2004

*A Bill to prevent the imposition of social disabilities by a member or members of a community on a member or members of his or their own community; to provide for penalties for such an act or acts and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Social Disabilities Act, 2004.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "community" means a group of members who are connected together by birth or conversion or performance of religious rites or ceremonies or who belong to the same religion or religious creed and includes a caste or sub-caste; and

Imposition of  
social  
disabilities.

(b) "member" means a person, whether male or female, who is a member of any community.

3. Any member who commits any of the following act or acts shall be deemed to have imposed social disability on a member of his community if he—

(a) denies, prevents or obstructs or causes to deny, prevent or obstruct any member of his own community from having access to or from using any place of worship or prayers or any place intended to be used for performing any religious ceremony or rite, prevalent or practised in his community;

(b) prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or from using any place used or intended to be used for a charitable, religious or public purpose and established, run, or maintained wholly or partly by his own community for and on behalf of the community and which is normally available for use to or by any member of his own community;

(c) prevents or obstructs or causes to prevent or obstruct any member of his community from enjoying any benefit under a charitable trust or wakf created for the benefit of his community;

(d) prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or using the facilities of any school, educational institution, medical institution, community hall, club hall, cemetery, burial ground or any other place used by or intended to be used by or for the benefit of, his community.

(e) prevents or obstructs or causes to prevent or obstruct any member of his community from observing any social or religious customs or usage or ceremony or from taking part in a social or religious functions, congregation, assembly, meeting or procession;

(f) prevents or obstructs or causes to prevent or obstruct any member of his community from establishing or maintaining such social, professional, or business relations as he would ordinarily establish or maintain with other members of his community;

(g) incites, provokes, or encourages any member of his community, directly or indirectly, to sever social, religious, professional or business relations with any other member or members of his community;

(h) refuses or denies or causes to refuse or deny to any member of his community the right to perform such marriage, funeral or other religious ceremonies and rites as the members of his own community usually and ordinarily perform;

(i) prevents or obstructs or causes to prevent or obstruct any member of his community from entering lodging in or otherwise using any *Dharamshala*, *Sarai* or *Musafarkhana* which is ordinarily open to members of his community; or

(j) prevents or obstructs or causes to prevent or obstruct any member of his community from entering or using any place of worship, such as, temple, mosque, church, *gurudwara* or any cemetery, crematorium or burial ground which is ordinarily open to members of his community.

Penalties.

4. (1) Whoever imposes any social disability on any member of his community shall on conviction be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

(2) Whoever aids or abets in the commission of any offence punishable under this Act or connives at the commission of any such offence or harbours any offender or destroys any evidence shall on conviction be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

2 of 1974.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1873, every offence under this Act—

(a) shall be cognizable, and

(b) may, with the permission of the Court, be compoundable.

Offences under this Act to be cognizable and compoundable.

6. (1) A police officer may—

(a) remove or cause to be removed any barricade or obstruction erected, placed or found in any place, if such police officer has reasonable ground to believe that the barricade or obstruction was so erected or placed in order to be used for the purpose of committing an offence under this Act; or

(b) open or cause to be opened any gate or door, if such police officer has reasonable ground to believe that such gate or door was closed for the purpose of committing an offence under this Act.

Police officers to take action in cases of imposition of social disabilities.

(2) Whenever a police officer has reasonable ground to believe that any person is likely to commit an offence under this Act, he may arrest such person without a warrant and deliver him into the custody of the officer-in-charge of a police station who may either release the person arrested on his executing a bond, with or without sureties, for his appearance in a Magistrate's Court or take or cause to be taken the person arrested before a Magistrate within twenty-four hours after the arrest.

(3) When a person appears before a Magistrate in compliance with a bond executed by him under sub-section (2) or is brought before a Magistrate, he may require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period not exceeding three years as the Magistrate may think fit and if after due inquiry, the Magistrate is satisfied that such person should execute a bond, with or without sureties, the Magistrate shall make an order accordingly and the provisions of section 107 and sections 112 to 123 (both inclusive) of the Code of Criminal Procedure, 1973, shall apply to or in relation to all orders to furnish security made under this sub-section.

2 of 1974.

## STATEMENT OF OBJECTS AND REASONS

The outdated and unconstitutional practices such as untouchability, boycotts, etc., are still practised in various communities in the country, resulting in great harassment to individuals or groups. The harassment so caused, naturally gives rise to ill-feeling and disharmony towards each other. This has far-reaching effects on the social life of the community. It is, therefore, necessary to root out these evils by putting a stop to the imposition of the various social disabilities. The objective can be achieved by enacting a suitable legislation for the purpose and also for providing punishment to those who indulge in such evil practices.

Hence this Bill.

NEW DELHI;  
July 6, 2004

KASHIRAM RANA.



## BILL No. 44 OF 2004

*A Bill to provide for the establishment of a permanent Bench of the High Court of Gujarat at Surat.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| 1. This Act may be called the High Court of Gujarat (Establishment of a Permanent Bench at Surat) Act, 2004.                                                                                                                                                                                                                                                                                                                                                | Short title.                                                          |
| 2. There shall be established a permanent Bench of the High Court of Gujarat at Surat and such Judges of the High Court of Gujarat, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Surat in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Bharuch, Surat, Valsad, Dangs and Navsari. | Establishment of a permanent Bench of High Court of Gujarat at Surat. |

## STATEMENT OF OBJECTS AND REASONS

There has been a persisting demand for setting up of a permanent Bench of the High Court of Gujarat at Surat. Several thousand cases have been pending in Gujarat High Court for a long time. Out of these many cases are pending for quite a long time.

It would be appropriate if a Bench of the Gujarat High Court is established at Surat. People belonging to southern districts of Gujarat have to travel to Ahmedabad in connection with their cases. It is a time consuming and costly affair.

In the interest of speedy and cheap justice and convenience of the litigant public, it is necessary to establish a Bench of the High Court of Gujarat at Surat.

The Bill seeks to achieve the above objective.

NEW DELHI;  
July 6, 2004

KASHIRAM RANA.

## BILL NO. 50 OF 2004

*A Bill further to amend the Punjab Municipal Corporation Law  
(Extension to Chandigarh) Act, 1994.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Punjab Municipal Corporation Law (Extension to Chandigarh) Amendment Act, 2004. Short title.

2. In the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, in Part II of the Schedule, — Amendment  
of the  
Schedule.

(a) in section 5,—

(i) in sub-section (2), in the proviso, for the word "twenty", the words "thirty and more than fifty" shall be substituted; and

(ii) sub-section (5) shall be omitted;

(b) after section 71 C, the following section shall be inserted, namely:—

"71D. (1) Notwithstanding anything contained in sections 71, 71A and 71B, any officer or employee who is or has been transferred to the Corporation from any department of Chandigarh Union territory Administration shall be deemed to be and to have always been on deputation with the Corporation.

(2) Such Officers and employees on 'deemed deputation' with the Corporation shall continue to be governed by the terms and conditions of service which were applicable to them before their transfer or would have been applicable if they had continued to work with the Administration but shall not be entitled to any deputation allowance."

## STATEMENT OF OBJECTS AND REASONS

The Punjab Municipal Corporation Act as extended to Chandigarh does not provide for the protection of the status of officers and employees transferred to the Corporation from Chandigarh Union territory Administration. Today such employees find themselves in a disadvantageous position *vis-a-vis* their colleagues with whom they had worked as equals before their transfer to the Corporation. It is imperative to undo any injustice that may have crept in as a result of this and to assure them that they would continue to be governed by the terms and conditions applicable to similar officers and employees of the Chandigarh Union territory Administration.

Another point thrown up by the working of the Chandigarh Municipal Corporation is that the present number of twenty wards is insufficient for an urban population of over 8 lakhs. To strengthen grass-root level democracy and ensure greater interface between the people and their representatives for a vibrant and responsive local self Government, it is felt that one Municipal ward should not exceed a population of thirty thousands. The five villages included within the Corporation area also yearn for their separate representatives to espouse their cause. Accordingly, it is felt that the number of elected Councillors should be at least thirty.

Thirdly, a mistake crept in while the Punjab Municipal Corporation Act was being extended to Chandigarh. Though Chandigarh Union territory has no Legislative Assembly, the provision conferring associate membership of the Municipal Corporation on every Member of Punjab Legislative Assembly "representing the Constituency in which the city or any part thereof is situate" was inadvertently retained in the Act as made applicable to Chandigarh. This is redundant provision and needs to be omitted.

The Bill seeks to achieve the above objective.

NEW DELHI;  
July 7, 2004

PAWAN KUMAR BANSAL.

## BILL NO. 39 OF 2004

*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2004.
2. In the Eighth Schedule to the Constitution, existing entries 17 to 22 shall be re-numbered as entries 18 to 23 respectively and before entry 18 as so re-numbered, the following entry shall be inserted, namely:—

"17. Rajasthani."

Short title.

Amendment  
of the Eighth  
Schedule.

## STATEMENT OF OBJECTS AND REASONS

Rajasthani is a very old and rich language and is spoken widely in many parts of this country especially in Rajasthan, Madhya Pradesh, Haryana. It is estimated that around fifty million people speak this language. The language has its own history, literature and has eminent scholars. This language is taught in many Schools, Colleges and Universities.

Yet, unfortunately, this rich language has not got due recognition it deserves. Hence, it is proposed in the Bill that the Rajasthani language be included in the Eighth Schedule to the Constitution.

The Bill seeks to achieve the above objective.

NEW DELHI;  
July 7, 2004

RASA SINGH RAWAT.

## BILL NO. 48 OF 2004

*A Bill to provide for reservation for most backward classes in services and educational institutions under the State.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Most Backward Classes (Proportional Representation in Services and Educational Institutions) Act, 2004.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means the Central Government or a State Government, as the case may be;

(b) "backward classes" has the same meaning as is assigned to it under clause (a) of section 2 of the National Commission for Backward Classes Act, 1993;

27 of 1993.

(c) "educational institutions" includes professional colleges, owned by the appropriate Government or receiving aid from the appropriate Government; and

(d) "most backward classes" mean classes or castes from amongst backward classes which are deemed to be most backward classes by the appropriate Government by notification under section 3.

Publication of  
list of names  
of most  
backward  
classes.

**3. The appropriate Government shall within six months from the coming into force of this Act, by notification in the Official Gazette, publish a list containing the names of most backward classes from amongst the backward classes in that State or Union territory, as the case may be.**

Reservation  
in services for  
the most  
backward  
classes.

**4. (a)** There shall be reservation in appointments for posts for most backward classes in the services under the appropriate Government.

(b) The number of appointments or posts reserved under sub-section (1) for the most backward classes shall, in the case of appointments or posts in services under the Central Government, be in the proportion of the ratio their respective population bears to the total population of the country and, in the case of appointments or posts in services under the State Government, in the proportion of the ratio their respective population bears to the total population of that State:

Provided that number of appointments or posts reserved for the most backward classes shall be readjusted in accordance with the ratio of the proportion of their respective population bears to the total population of the country or of a State, as the case may be, as ascertained at the last preceding census of which the relevant figures have been published:

Provided further that if no suitable candidates belonging to the most backward classes are available to fill the appointments or posts reserved for them, such appointments or posts shall be carried forward to subsequent years and shall be filled up by candidates belonging to the most backward classes only.

*Explanation.*— In this section, the expression "reservation in appointments or posts in services" means reservation in initial recruitment and includes reservation in promotions at all levels in all services.

Reservation  
in educational  
institutions  
for most  
backward  
classes.

**5. (1)** There shall be reservation of seats for the most backward classes in all educational institutions under the appropriate Government.

(2) The number of seats reserved in any educational institutions in a Union territory or in a State for the most backward classes, as the case may be, shall bear the same proportion to the total number of seats in that educational institution as the respective population of the most backward classes bears to the total population of that Union territory or of that State, as the case may be.

Act to have  
over-riding  
effect.

**6.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or anything contained in any judgment of any court of law contrary to it including judgment regarding ceiling on reservation.

Power to  
make rules.

**7.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.



### STATEMENT OF OBJECTS AND REASONS

It is an accepted fact that the quantum of reservation is fixed on the basis of the population of the class for which reservation has been made. The backward classes form 54 percent. of the population of the country. In view of the judgment of the Hon'ble Supreme Court, that the total reservation should not exceed 50 percent the reservation for backward classes has been fixed at 27 percent. The most backward classes constitute 34 percent. of the population and hence the most backward classes are entitled to 17 percent. reservation out of the reservation quota fixed for the backward classes.

Reservation in matters of appointments or posts is not an insidious and invidious discrimination but is a benign, positive, acceptable and necessary discrimination to tilt the balance in favour of hitherto historically deprived, oppressed and repressed classes of Indian society.

When there was no reservation in appointments or posts, all appointments or posts used to be usurped by the upper castes. This has been our historical experience.

Again when reservation in appointments or posts was made for the backward classes, the dominant classes or castes among the backward classes are grabbing and bagging all such appointments or posts and the most backward classes are left high and dry.

Hence it has become essential that special provisions be made for the reservation of appointments or posts exclusively for most backward classes.

Hence this Bill.

NEW DELHI;  
July 9, 2004

KASHIRAM RANA.

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### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for preparation and publication of list of most backward classes by the appropriate Government. As far as expenditure on this relating to Union territories is concerned, it will be met out of the Consolidated Fund of India. The respective State Governments will meet expenditure relating to their States. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an expenditure to the tune of rupees twenty-five crore is likely to be involved as one time affair.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules to be made will be in regard to administrative detail only, the delegation of legislative power is of a normal character.

## BILL NO. 49 OF 2004

*A Bill to provide for the establishment of a Technology Bank to assist professionals engaged in research work in various disciplines.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Technology Bank of India Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'Bank' means the Technology Bank of India established under section 3;

(b) 'prescribed' means prescribed by rules made under the Act;

(c) 'professional' means a researcher or a scientist engaged in research work in space or engineering or medicine including all systems of Indian medicine or energy, agriculture, chemicals, defence, environment, food processing, non-conventional energy sources, petroleum and allied products, science and technology including bio-technology, electronics and ocean development.

3. (1) The Central Government shall establish a bank to be known as "Technology Bank of India" with its headquarters at New Delhi.

Establishment  
of Technology  
Bank of India.

(2) The Central Government shall establish a branch of the Bank in every State capital and Union territory.

(3) The Bank shall consist of a Chairman and four other members to be appointed by the Central Government.

(4) Every branch of the Bank shall consist of a General Manager and such other officers and staff as may be required.

(5) The terms and conditions of service and appointment, salaries and allowances of Chairman, members and employees of the Bank shall be such as may be prescribed.

4. The main object of the Bank shall be to financially assist the professionals in their research work.

Object of the  
Bank.

5. (1) Every professional wishing to avail of financial assistance from the Bank shall apply to the concerned branch of Bank.

Application  
for loan.

(2) While applying for loan the professional shall furnish all details about his research, experience, infrastructure available with him and required and the amount of loan and the period for which it is required.

6. The concerned branch shall forward the application to the Head Office with its recommendations within a period of fifteen days from the date of receipt of the application.

Branch  
to forward  
application to  
head office.

7. (1) The Head Office shall consider the application taking into account the recommendations of the concerned branch and arrive at a decision within a period of fifteen days from the date of receipt of such application.

Head Office  
to decide on  
sanction of  
loan.

(2) The Head Office shall have the power either to increase or decrease the amount of loan applied for or the period for which it is sought and its decision thereon shall be final.

8. (1) Upon the decision of the Head Office to sanction the loan, the loan amount shall be given to the professional at once.

Loan.

(2) The loan amount so sanctioned shall be interest free.

(3) The loan amount shall be repayable within such period as may be determined in the terms and conditions governing the loan.

(4) The loan shall be repayable by the professional after his research work has been completed or after a period of five years from the date of sanction of loan, whichever is earlier.

9. Every professional who has been sanctioned a loan by the Bank shall, upon completion of his research work inform the Central Government or the State Government, as the case may be and the Bank about his research work.

Professional  
to inform  
Government  
about his  
research.

10. (1) Every professional who applies for loan shall give an undertaking that he shall not leave the country during the period of his research:

Professional  
not to leave  
the country  
during  
research.

Provided that the Central Government may, in special circumstances to be recorded in writing, allow a professional to go abroad to acquaint himself with the new techniques which will promote or help in his research work.

(2) No professional who has been sanctioned a loan by the Bank shall leave the country until he has submitted his research work to the Central Government and repaid the loan.

Employment to  
Professional.

11. The Central Government may, after considering the research work submitted by a professional, give suitable award to him and provide him with suitable employment in an office or organisation under the Central Government.

Assistance to  
professionals.

12. The Central Government shall provide housing and stipend at such rates, as it may determine, to a professional during his research for a period of five years or till he completes his research, whichever is earlier.

Punishment.

13. If any professional violates the provisions of section 10, deportation proceedings shall be proceeded against him at once and he shall be punished with imprisonment for a period of five years and a fine of rupees five lakh and he shall be required to repay the loan at once.

Power to  
make rules.

14. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

### STATEMENT OF OBJECTS AND REASONS

Due to lack of facilities and financial assistance, our young researchers and scientists are not able to do any research work or engage themselves in any project. They are lured by multinationals and foreign countries and as a result our country is not able to utilise their talent.

Therefore, it is proposed to encourage our researchers and scientists by giving them financial and other assistance to do their research work. It is accordingly proposed that the researchers shall be given loan by the bank for their research work and during that period they will be provided with housing and stipend facilities. However, the researchers will have to submit their papers or project to the Government after the completion of their work so that the country can fully benefit from their work.

The Bill serves two purposes; on the one hand it helps our researchers to do their work peacefully and on the other it helps us to utilise their talent and benefit from their research work.

NEW DELHI;  
July 9, 2004

KASHIRAM RANA.

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a Technology Bank of India. It further provides for the establishment of offices and branches of the bank in every State Capital and Union Territory. The bank shall consist of a Chairman, four other members, General Manager and other employees. Clause 4 relates to financial assistance to professionals in their research work. Clause 11 provides that the Central Government shall give award and suitable employment to those who have completed their research work. Clause 12 provides for housing and stipend to researchers for a period of five years.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of rupees five hundred crore. A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

Short title,  
extent and  
commence-  
ment.

Definitions.

BILL NO. 51 OF 2004

*A Bill to provide for reservation in posts and appointments for women in services under the Central Government and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Women (Reservation in Service) Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, appoint.

2. In this Act, unless the context otherwise requires,—

(a) "Government" means the Central Government;

(b) "service" means the service in connection with the affairs of the Central Government and includes the services in any public sector undertaking or enterprise or any authority under the control of the Central Government.

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "public sector undertakings and enterprises" means and includes all public sector undertakings, enterprises, banks and financial institutions wholly owned or managed by the Central Government or in which fifty-one per cent. shares are held by the Central Government.

3. There shall be reserved thirty-three per cent. of all appointments and posts in services under the Central Government including Public Sector Undertakings for women.

Reservation  
for women in  
service.

4. The Government shall make provision for relaxation in eligibility conditions, as may be prescribed, for appointment of women in services under the Central Government.

Relaxation in  
eligibility  
conditions.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make rules.

## STATEMENT OF OBJECTS AND REASONS

Women in India often find themselves so deeply engrossed in family affairs and burdened with such heavy domestic responsibilities that despite their capabilities, education and aptitude, they are unable to enter into Government services in due time.

Women have only marginal representation in services connected with the affairs of the State. Even though they are capable of carrying out the responsibilities of the various assignments efficiently, but sometimes they do not fulfil the requisite qualifications, experience and other conditions of eligibility attached to that post/assignment.

It is, therefore, necessary to reserve thirty-three per cent. of posts for women in all appointments in services under the State, including public sector undertakings and enterprises and to provide for relaxation in the matter of age-limit, requisite educational qualifications, experience and other conditions of eligibility to ensure their due representation in Government services.

Hence this Bill.

NEW DELHI;  
July 15, 2004

KRISHNA TIRATH.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.



## BILL NO. 80 OF 2004

*A Bill further to amend the Income Tax Act, 1961.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Income Tax (Amendment) Act, 2004.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1961.

2. After section 4 of the Income Tax Act, 1961, the following section shall be inserted, namely:—

Insertion of  
new section  
4A.

"4A. (1) Any person may voluntarily deposit rupees one crore as tax in respect of his annual total income within ninety days from the beginning of the financial year in respect of the assessment year concerned:

Special  
provisions for  
voluntarily  
deposit of  
income-tax.

Provided that this shall not apply to persons mentioned in clauses (ii) to (vii) of sub-section (31) of section 2 of this Act:

Provided further that the amount of rupees one crore shall be subject to review after every five years.

(2) Notwithstanding anything contained in this Act, a person who deposits tax in respect of his annual total income for the next assessment year shall not be—

(a) required to file income-tax return for the year;

(b) subject to any inquiry or investigation;

(c) subject to house search or raids on his residential or office premises; and

(d) subject to any other proceeding in connection with his income tax for the said assessment year.

(3) The tax once paid under sub-section (1) shall be deemed as the final settlement of the income tax for the assessment year.

(4) No suit, prosecution or any other legal proceedings shall lie in any court for assessment or re-assessment or refund or recovery in respect of income-tax paid by any person in respect of his annual total income under sub-section (1).

## STATEMENT OF OBJECTS AND REASONS

Of late, the number of persons who are not filing their income-tax returns, or suppressing their income or evading payment of income-tax deliberately is gradually going up. This leads to an unmanageable accumulation of income-tax revenues year after year. It generates black money and the corpus of which, by all accounts, is running a parallel economy in the country. This is a very serious situation and unless controlled in time it will spell an all round ruin for us.

It is, therefore, proposed to create a clean and free atmosphere and ensure transparency in the tax system where people will voluntarily submit returns and pay tax without any fear or harassment. This will lead to a scenario which will encourage to unleash the creative energies of our entrepreneurs, businessmen and other professionals and productive forces of the society which is one of the six basic principles for the country's governance as enshrined in the Common Minimum Programme which is the charter of the United Progressive Alliance Government.

Hence this Bill.

NEW DELHI;  
July 16, 2004

S. P. Y. REDDY.

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PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274  
OF THE CONSTITUTION

[Copy of letter No. 155/28/2004-TPL, 28 September, 2004 from Shri P. Chidambaram, Minister of Finance to the Secretary-General, Lok Sabha].

The President, having been informed of the subject matter of the Income Tax (Amendment) Bill, 2004 (*Insertion of new section 4A*) by Shri S.P.Y. Reddy, M.P., has recommended under articles 117(1) and 274(1) of the Constitution the introduction of the Bill in Lok Sabha.

## BILL NO. 55 OF 2004

*A Bill to provide for comprehensive and compulsory insurance of fishermen and boats against any mishap and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

- 1 (1) This Act may be called the Fishermen Insurance Act, 2004.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Authority” means the Fishermen Insurance Authority constituted under section 5.

(b) “boat” means a conventional boat, motorboat, catamaran whether small or big or any such vehicle used for transporting or fishing in sea;

(c) "fisherman" means any person who engages himself in fishing and earns livelihood out of it;

(d) "mishap" means an accident resulting in loss of life or any physical injury, disability, handicap, whether temporary or permanent, caused to a fisherman or loss or damage to a boat while engaging in fishing due to any natural calamities or due to unforeseen circumstances.

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "scheme" means the fishermen insurance scheme framed under section 3.

**3. (1) The Central Government shall frame a Scheme to be known as the Fishermen Insurance Scheme, for comprehensive and compulsory insurance of fishermen and boats against any mishap.**

Framing of  
Fishermen  
Insurance  
Scheme.

(2) The scheme shall be applicable to all fishermen irrespective of their income, size of boat and quantity of catch of fish.

(3) The scheme shall provide for—

(a) the principles and conditions governing the insurance of fishermen and boats under the scheme;

(b) part of insurance amount to be paid immediately to the fishermen in different mishaps caused to them due to hazards involved in their work or natural calamities;

(c) nominal rate of premium to be paid by the fishermen;

(d) the extent of insurance cover;

(e) the manner of making claims by fishermen or their family members; and

(f) any other matter which the Central Government may deem necessary.

**4. (1) The Central Government shall, by notification in the Official Gazette, establish a fund to be known as the Fishermen Insurance Fund which shall consist of—**

Establishment  
of the  
Fishermen  
Insurance  
Fund.

(a) premium amount received from fishermen for insurance under the Scheme;

(b) any amount received as contribution or donation from any individual or organisation in India or abroad; and

**(2) The initial capital of the Fishermen Insurance Fund shall be rupees five hundred crore which shall be contributed by the Central Government.**

**(3) The Fishermen Insurance Fund shall be utilised for the payment of insurance in the following cases:—**

(i) loss of life or injury to fishermen while engaged in fishing;

(ii) loss or damage to boat or other equipments; and

(iii) loss or damage to fish caught by a fisherman.

**5. (1) The Central Government shall, by notification in the Official Gazette, constitute an Authority to be known as the Fishermen Insurance Authority.**

Constitution  
of Fishermen  
Insurance  
Authority.

(2) The Authority shall administer the scheme framed under section 3.

(3) The Authority shall have a Chairman and such number of members as may be appointed by the Central Government.

(4) The Authority shall have such number of officers and staff as may be prescribed.

(5) The terms and conditions as to the qualifications, salary and allowances of the Chairman and members and officers/staff of the Authority shall be such as may be prescribed.

(6) The Authority shall have its head office located at Cochin.

(7) The Authority shall establish at least one or more offices in every coastal State according to the population of fishermen in the State concerned and at such other places as it may deem fit.

Provision of compensation.

6. (1) A fisherman, who is affected, may make an application in the prescribed form to the Authority for compensation.

(2) In case of loss of life of a fisherman, the next of kin of the victim may make an application in the prescribed form to the Authority for compensation.

Insurance amount to be paid within one month.

7. On receipt of an application, the Authority shall make an enquiry and on receipt of the report, if any, the Authority shall either approve of the claim, or reject the application if it has been found that a false claim has been made, within one month from the date of receipt of such application.

Claim of compensation in cases of non-payment of premium.

8. If a fisherman, who has not paid premium, claims compensation, he shall be paid the compensation, if due, after deducting the amount of premium due towards him.

Payment of insurance amount.

9. It shall be the responsibility of the Authority to pay the insurance amount or such part of insurance amount to a fisherman for any mishap he may be involved in during the course of his work, out of the Fishermen Insurance Fund.

Power to make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

### STATEMENT OF OBJECTS AND REASONS

Fishermen go to sea at great risk. Some times they even lose their lives. Their boats are damaged or lost in the sea. Their equipments are damaged. Since, there is no exclusive insurance scheme for them, they suffer as they only know the traditional profession of fishing by which they earn very meagre income. In order to provide protection to the traditional fishermen community living in coastal areas of the country it is necessary to provide insurance cover to them when they suffer loss of life or physical injury or damage to their equipments in the course of fishing or during natural calamities. Such a step will alleviate the sufferings of fishermen to some extent. Therefore, it is proposed that a comprehensive insurance scheme for fishermen should be formulated.

Hence, this Bill.

NEW DELHI;  
July, 27, 2004

A.P. ABDULLAKUTTY.

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### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for framing of the Fishermen Insurance Scheme by the Central Government. Clause 4 provides for establishment of Fishermen Insurance Fund with initial capital of rupees five hundred crore to be contributed by the Central Government. Clause 5 provides for constitution of the Fishermen Insurance Authority who administer the scheme framed under the Act.

The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of rupees three thousand crore is likely to be involved from the Consolidated Fund of India. A non-recurring expenditure of rupees one thousand crore is also likely to be involved.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 78 OF 2004

*A Bill to provide for ban on witchcraft in any form in the country.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Ban on Witchcraft Act, 2004.

(2) It shall come into force on such date as, the Central Government may, by notification in the Official Gazette, appoint.

(3) it extends to the whole of India except the State of Jammu and Kashmir.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) 'advertisement' means any notice, circular, label, wrapper or other document and includes any visible representation of witchcraft by means of any light or sound but does not include any publication which is of any interest in the field of science, literature, art or learning or of general concern;

(b) 'prescribed' means prescribed by rules made under this Act; and

(c) 'witchcraft' means an act of magic, casting spells or sorcery or voodoo which is practised with a view to help or harm other persons.



- |                                                                                                                                                                                                        |                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| 3. Notwithstanding anything to the contrary contained in any custom of any community, tribe or religion there shall be a complete ban on the practice of witchcraft in any form.                       | Banning of witchcraft.                                             |
| 4. No person shall practise or cause to be practised, promote or cause to be promoted, advertise or cause to be advertised any act of witchcraft in any form.                                          | Ban on advertisement of witchcraft in any form.                    |
| 5. Any person who contravenes the provisions of this Act shall be punishable with rigorous imprisonment for a term which shall be not less than five years.                                            | Punishment.                                                        |
| 6. Notwithstanding anything to the contrary contained in any other law for the time being in force, any offence punishable under this Act shall be deemed to be a cognizable and non-bailable offence. | Offences committed under this Act are cognizable and non-bailable. |
| 7. The provisions of this Act shall have effect notwithstanding anything inconsistent contained therein to any other law for the time being in force.                                                  | Overriding effect of the Act.                                      |
| 8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.                                                                           | Power to make rules.                                               |

## STATEMENT OF OBJECTS AND REASONS

The United Nations Organisation has released a comprehensive report in which it has expressed its concern at the number of murders ascribed to witch-hunting. India has been named alongwith other underdeveloped countries as a high incidence zone for witchcraft related killings. Generally, women are branded as 'witch' and they are harassed, tortured, insulted and even murdered in the name of witchcraft by their relatives or so called witchhunters in cold blood. These victims undergo a traumatic experience and suffer a lot throughout their lives. Such incidents are occurring throughout the country particularly in the tribal areas. Due to the absence of any specific legislation to deal with the crimes of witchcraft, the assailants are booked under existing ordinary laws. All this results in easy acquittal of guilty persons.

It is, therefore, necessary to enact a law to put a blanket ban on the practice of witchcraft and to provide for rigorous punishment for practising or promoting or advertising witchcraft in any form. It will also help to prevent the atrocities committed on women in the name of witchcraft.

Hence this Bill.

NEW DELHI;

KARUNA SHUKLA.

July 27, 2004

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 65 OF 2004

*A Bill further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2004.

Short title and commencement.

(2) It shall be deemed to have come into force on the 23rd day of July, 2004.

2. In Section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954, after the third proviso, the following proviso shall be added at the end, namely:—

Amendment of section 3.

30 of 1954

“Provided also that if a House of Parliament is adjourned for the day due to pandemonium in the House and no business could be transacted on that day, the provision of this section as regards daily allowance in respect of that day shall not apply.”.

## STATEMENT OF OBJECTS AND REASONS

It has been observed that on a number of occasions in the past, the members of either House of Parliament have rushed to the well of the House shouting slogans and declaring that they would not permit the business of the House to run unless the demands raised by them are accepted. The Houses of Parliament had to be adjourned on the ground that no business could be transacted in an orderly manner. This is not in consonance with the healthy democratic principles of running the Parliament. That being so, it is desirable that when no business is transacted because of the pandemonium in the House, the members should not draw the daily allowance for that day.

As unprecedented events led to adjournment of Lok Sabha on 23rd July, 2004, it is intended to give effect to the provisions of the Bill from that date.

Hence this Bill.

NEW DELHI;  
July 29, 2004

PAWAN KUMAR BANSAL.

## BILL NO. 64 OF 2004

*A Bill further to amend the Representation of the People Act, 1951.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Representation of the People (Amendment) Act, 2004. Short title.

43 of 1951

2. Section 12 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act) shall be numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:— Amendment of section 12.

" (2) Where the Legislative Assembly or, as the case may be, the electoral college of a State or of a Union territory, is not in existence when a member of the Council of States representing that State or the Union territory retires on the expiration of his term of office, a notification for the purpose of filling that seat shall be issued within a fortnight from the date the Legislative Assembly or the electoral college, as the case may be, is duly constituted."

Amendment of  
section 154.

**3. In section 154 of the principal Act,—**

(i) in sub-section (1), after the words "a casual vacancy", the words "or elected in an election held in pursuance of notification under sub-section (2) of section 12" shall be inserted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) A member chosen to fill a vacancy in an election held in pursuance of a notification under sub-section (2) of section 12, shall retire on the completion of the term that would have begun as if the Legislative Assembly or the electoral college, as the case may be, existed on the date of occurrence of the vacancy and elections held in pursuance of notification under sub-section (1) of section 12:

Provided that the provisions of this sub-section shall not apply to members elected before the commencement of the Representation of the People (Amendment) Act, 2004, but the President may, after consultation with the Election Commission, make by order such provisions as he thinks necessary to ensure that after the expiry of their present term, one-third members retire on Second day of April in every second year thereafter."

## STATEMENT OF OBJECTS AND REASONS

The concept of one-third members of Rajya Sabha retiring every two years is, over the years, losing its relevance as it has been seen that when a member retires on completion of his six years term, the concerned Legislative Assembly or the electoral college is not in existence and when the same is constituted, election is held for six years term beginning thereafter. Consequently cases arise where due to this reason, election to the Council of States from a State may be held for all or most of the seats irregularly or even after six years in one lot. This is contrary to the basic concept of holding biennial elections. It is necessary to restore and maintain this stipulation without affecting the rights of sitting members of the Council of States.

This Bill seeks to achieve this objective.

NEW DELHI;  
July 29, 2004

PAWAN KUMAR BANSAL.

## BILL NO. 89 OF 2004

*A Bill to provide for free medical and engineering education to meritorious students who are economically weak and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Provision of Free Medical and Engineering Education to Meritorious Students Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means the State Government in the case of a State and Central Government in other cases;



(b) "economically weak student" means such a student whose family income from all sources is not more than rupees two thousand per month;

(c) "meritorious student" means such a student who has obtained such marks or has passed the examination with such grade, as may be prescribed; and

(d) "prescribed" means prescribed by rules made under this Act.

**3. The appropriate Government shall provide free medical and engineering education to every meritorious economically weak student in any medical or engineering college or institution including privately managed or aided by the Government.**

Provision for free medical and engineering education to economically weak students.

*Explanation:* For the purpose of this section, free education means and includes,—

(a) all expenses to be incurred on admission or tuition fees;

(b) material like books and writing material;

(c) hostel facilities, wherever necessary; and

(d) scholarships in such cases, as may be prescribed.

**4. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters provided in this Act.**

Provisions of the Act not to be in derogation of any other law for time being in force.

**5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.**

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Most of the parents aspire to make their sons or daughters either a doctor or an engineer and most of the youths studying in the schools also have this desire. However, there are many extraordinarily brilliant students whose dreams are not realized only due to poverty. Medical and engineering education is so expensive that even middle class families cannot afford to provide this education to their children. For this reason, a large number of meritorious students are not able to get admission in medical or engineering colleges.

Since our country is a welfare State, it is our duty to provide opportunity to such poor but meritorious students to continue the course of their interest and fulfil their life's ambition. The appropriate Government should bear all the expenses to be incurred on the studies of the students in the engineering or medical colleges in such cases.

NEW DELHI;  
August 8, 2004

RAMDAS ATHAWALE.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free medical and engineering education by the appropriate Government for meritorious students, who are economically weak admitted in a privately owned medical or engineering college. This clause also provides for scholarships and certain other facilities to those students. As regards the expenditure involved in giving effect to the provisions of the Bill in the States, it shall be borne out of the Consolidated Funds of the respective States. However, in case of Union territories, the expenditure shall be met out of the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore is likely to be involved as a recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. These rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 81 OF 2004

*A Bill to provide for reservation of vacancies for the members of scheduled castes and scheduled tribes in posts and services under the control of the Government of India or of a State Government and in all statutory authorities and autonomous bodies receiving money from the Government of India or of a State Government and for providing punishment for violation of reservation policy and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Reservation of Vacancies in Posts and Services) Act, 2004.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

(3) It shall apply to every establishment as defined in clause (b) of section 2.

Short title,  
commence-  
ment and  
application.

## Definitions.

2. In this Act, unless the context otherwise requires;—

(a) “appointing authority” in relation to a service or post in an establishment means the authority empowered to make appointment to such service or post;

(b) “establishment” means—

(i) any office of the Government of India or of a State Government;

(ii) any public sector undertaking or statutory authority constituted under any Central Act or a State Act for the time being in force;

(iii) a corporation in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government or a State Government;

(iv) a university and its affiliated colleges, including medical and engineering colleges affiliated to such university established under a Central Act or a State Act;

(v) primary and secondary schools and other educational institutions which are owned or aided by the Central Government or by a State Government;

(vi) any industry, trade, business or occupation owned, controlled or managed by the Central Government or a State Government;

(vii) any Government company as defined in section 617 of the Companies Act, 1956 or a Corporation established by or under a Central Act or a State Act; and

(viii) all autonomous bodies and other institutions receiving monies out of the Consolidated Fund of India or Consolidated Fund of a State or grants-in-aid from the Central Government or a State Government;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “recruitment year” means the financial year during which a recruitment is actually made;

(e) “reservation” means reservation of vacancies in posts and services for Scheduled Castes and Scheduled Tribes;

(f) “Scheduled Castes” shall have the same meaning as is assigned to them in clause (24) of article 366 of the Constitution of India; and

(g) “Scheduled Tribes” shall have the same meaning as is assigned to them in clause (25) of article 366 of the Constitution of India.

Reservation  
of vacancies  
for Scheduled  
Castes and  
Scheduled  
Tribes.

3. (1) There shall be reservation of vacancies in posts and services for the members of the Scheduled Castes and the Scheduled Tribes at all levels of recruitment including appointments by promotion.

(2) Except as otherwise provided in this Act, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled up by candidates not belonging to the Scheduled Castes and the Scheduled Tribes.

(3) The reservation of vacancies under sub-section (1) shall be at such percentage of the total number of vacancies as the Central Government may, after taking into consideration the percentage of population of the Scheduled Castes and the Scheduled Tribes to the total population of the country, as per the figures of the latest census; from time to time determine:

Provided that in no case such reservation shall be less than fifteen per cent. of the total number of vacancies for the members of the Scheduled Castes and seven and a half per cent. of the total number of vacancies for the members of the Scheduled Tribes at any given point of time.

(4) Vacancies reserved for the members of the Scheduled Castes and the Scheduled Tribes under sub-section (1) shall be filled in such manner as may be prescribed:

Provided that any post falling vacant in any establishment from general category shall be offered to the Scheduled Caste or the Scheduled Tribe candidate, as the case may be, to fill up the gap of percentage of vacancies reserved under sub-section (3).

4. (1) The recruitment to a vacancy not reserved for the members of the Scheduled Castes or the Scheduled Tribes or for any other category shall be open to all eligible candidates including the candidates belonging to the Scheduled Castes and the Scheduled Tribes.

Vacancies not reserved to be open to all candidates including candidates belonging to Scheduled Castes and Scheduled Tribes.

(2) Where an unreserved vacancy is filled up by a candidate belonging to a Scheduled Caste or a Scheduled Tribe on the basis of merit, either by direct recruitment or by promotion, such vacancy shall not be adjusted against the percentage of vacancies reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be.

5. (1) Where the number of vacancies reserved for the members of the Scheduled Castes or the Scheduled Tribes, as the case may be, in a recruitment year cannot be filled up due to non-availability of candidates from the respective categories, such vacancies shall continue to be reserved for that category for such number of recruitment years, as may be prescribed.

Exchange of vacancies between Scheduled Castes and Scheduled Tribes.

(2) If, after the expiry of the number of recruitment years prescribed under sub-section (1), the candidates belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, are not available to fill up the vacancies respectively reserved for them, such vacancies shall be inter-changed between the Scheduled Castes and the Scheduled Tribes with such relaxation and in such manner, as may be prescribed.

6. (1) It shall be the responsibility of the appointing authority to ensure that the provisions of this Act or the rules made thereunder are not violated.

Appointing authority to be responsible for implementation of the provisions of the Act.

(2) The Central Government may give such directions or prescribe such guidelines to the appointing authority, as it may deem fit for the purposes of sub-section (1).

7. The provisions of this Act and the rules made thereunder shall be in addition to and not in derogation of any other law, for the time being in force, in respect of recruitment/promotion of the members of the Scheduled Castes and the Scheduled Tribes to the extent that such law is not inconsistent with the provisions of this Act or the rules made thereunder.

Application of other laws not barred.

8. For appointment of candidates belonging to the Scheduled Castes and the Scheduled Tribes—

Relaxations and concessions.

(a) the upper age limit fixed for appointment to a service or a post shall be relaxed by such number of years, as may be prescribed, but such relaxation in age, in no case, be less than five years;

(b) the examination fees fixed for recruitment to a service or a post through competitive examination or otherwise shall be reduced to such extent, as may be prescribed.

(c) the requirement of percentage of marks, educational and other qualifications including experience required for direct recruitment/promotion may be relaxed at the discretion of the appointing authority if at any stage of selection the appointing

authority is of the opinion that sufficient number of Scheduled Caste and Scheduled Tribe candidates with requisite qualifications are not available to fill up the vacancies reserved for them; and

(d) the appointing authority shall pay to the candidates such travelling allowance, as may be prescribed, for the purpose of attending competitive examination and/or interview.

Protections of  
action taken  
in good faith.

9. No suit, prosecution or other legal proceedings shall lie against any establishment or any other person for anything which has been done or intended to be done in pursuance of giving effect to the provision of this Act or any rule or order made thereunder.

Liaison  
officer.

10. (1) Every establishment shall designate one or more officers of such rank, as may be prescribed, to act as liaison officer in respect of matters provided in this Act and to ensure that the provision of this Act or rules made thereunder are not violated.

(2) The Liaison Officer, shall, in particular, be responsible for—

(a) ensuring coordination and proper implementation of the provisions of this Act and the rules made or any order, instruction or direction issued by the Central Government, thereunder;

(b) ensuring timely submission of the annual report, referred to in section 11 to the Central Government;

(c) conducting annual inspection of records in such manner, as may be prescribed; and

(d) doing such other incidental work, as may be necessary, for the proper implementation of the provisions of this Act or the rules made thereunder.

Submission  
of Annual  
Reports and  
maintenance  
of other  
records and  
inspection  
thereof.

11. (1) Every appointing authority shall maintain such records, as may be prescribed, and shall furnish every year, in such manner and at such time, as may be prescribed, to the Central Government an annual report on the appointments and promotions made by it during the previous recruitment year:

Provided that the appointing authority shall maintain separate records of all appointments and promotions made during the previous recruitment year for each category of posts and services and each of such records shall specifically contain the number and percentage of persons belonging to the Scheduled Castes and the Scheduled Tribes who were appointed or promoted to fill up the vacancies against those posts and services during that recruitment year.

(2) The Central Government may authorise any officer to inspect any records or documents which are maintained in relation to appointments and promotions made in any establishment by the appointing authority.

(3) It shall be the duty of the appointing authority to make available such records or documents to—

(a) the officer authorised under sub-section (2) and furnish to him such information and render such assistance as may be necessary for him to carry out his functions under this Act; and

(b) any employee working under him on receiving a written request.

Punishment.

12. Whoever contravenes the provisions of this Act shall be punished with imprisonment which may extend to one year or with fine amounting to rupees ten thousand or with both.

Punishment  
for making  
false claims.

13. Whoever knowingly makes a false claim that he is a member of the Scheduled Caste or, as the case may be, the Scheduled Tribe, and whoever knowingly issues a false certificate to this effect, shall be punished with imprisonment for a term which shall be not less than three years or with fine which may extend to rupees ten thousand or with both.

14. The Central Government may, by order give such directions, as it may deem fit, from time to time, to give effect to the provisions of this Act and every establishment shall be bound by all such directions issued by the Central Government.

Power of Central Government to give directions.

15. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, to be published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty.

Removal of difficulties.

(2) Every order made under this section shall be laid as soon as may be after it is made, before each House of Parliament.

16. The Central Government shall, every year, lay before each House of Parliament, a report giving full account of the working of the provisions of this Act during the preceding recruitment year:

Annual Report.

Provided that the report shall also include details of penal action taken against the appointing authorities for violating the provisions of this Act.

17. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the percentage of vacancies to be reserved for the members of the Scheduled Castes and the Scheduled Tribes under sub-section (3) of section 3;

(b) the manner of filling vacancies reserved for the Scheduled Castes and the Scheduled Tribes under sub-section (4) of section 3;

(c) the number of recruitment years for carrying forward reserved vacancies not filling in a particular recruitment year and the manner of interchange of vacancies between the Scheduled Castes and the Scheduled Tribes under section 5;

(d) relaxation in upper age limit;

(e) reduction in quantum of fee to be charged for admission to competitive examination/interview;

(f) the rate at which the travelling allowance, referred to in clause (d) of section 8, may be given to the Scheduled Castes and the Scheduled Tribes;

(g) rank of officer to be designated as liaison officer under section 10;

(h) the manner in which records may be maintained by the appointing authority and the manner in which and the time at which an annual report on the appointments and promotions made by the appointing authority during the previous year may be furnished under sub-section (1) of section 11;

(i) the manner of conducting inspection of records under section 11;

(j) procedure that may be followed by the appointing authority for verification of the caste status of the appointee and the procedure that may be followed by the higher authority in case an appeal is filed by the appointee against the action of appointing authority; and

(k) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions

aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Act to have  
over riding  
effect.

18. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.



## STATEMENT OF OBJECTS AND REASONS

Articles 38, 39 and 46 of the Constitution require the State to promote educational and economic interests of the Scheduled Castes and the Scheduled Tribes in order to render social justice to them and since employment including promotions in service is an aspect of economic interest of the Scheduled Castes and the Scheduled Tribes, it is the duty of the State to give adequate protection to the economic interests of the Scheduled Castes and the Scheduled Tribes. Moreover, it has been our national policy to make special provisions for the advancement of the Scheduled Castes and the Scheduled Tribes in matters relating to their employment or appointment, including promotions, to any office under the State. This view was also upheld by the Supreme Court in Rangachari's case in 1962 and ever since many judgements have been delivered by the Supreme Court on the above principle including the judgements in the Thomas' case and the Railway Karamachari Sangh's case.

However, in the recent Mandal case the Supreme Court took the view that reservation is confined only to initial recruitment and does not include promotion and, as such, reservation in promotion is not covered under article 16(4) of the Constitution. The decision of the Supreme Court is enforceable throughout the territory of India under article 142 of the Constitution unless a law is made by the Parliament annulling the effect of the decision of the Supreme Court.

In such circumstances it has, therefore, become necessary to amend article 16 and Ninth Schedule to the Constitution making reservation in promotion as a part of reservation scheme and such reservation of appointment and posts, which includes reservation in promotion in services and posts under the State, may not be subject to any judicial scrutiny.

However, it is all the more important that a separate Act should be made providing for ensuring reservation in appointments and posts for the Scheduled Castes and the Scheduled Tribes, including reservation for them in promotions in all the departments of the Central Government and State Governments, nationalised banks, public sector undertakings, statutory authorities, autonomous bodies, companies or corporations, societies, local authorities, universities, educational institutions affiliated to the universities or those recognised by the Central Government or receiving aid from the Central Government, etc. Moreover, penal provisions have to be provided to ensure effective implementation of the Act and to ensure that the reservation is not less than fifteen per cent. of the total number of vacancies for members of the Scheduled Castes and seven and half per cent. of the total number of vacancies for members of the Scheduled Tribes at any given point of time.

The Bill seeks to achieve the above objective.

NEW DELHI;  
August 20, 2004

RAMDAS ATHAWALE.

## FINANCIAL MEMORANDUM

Clause 8(d) of the Bill provides that the appointing authority shall pay to the Scheduled Caste and the Scheduled Tribe candidates such travelling allowance, as may be prescribed, for the purpose of attending competitive examination and/or interview. Clause 11 provides that every appointing authority shall maintain such records, as may be prescribed, and shall furnish every year, in such manner and such time, as may be prescribed, to the Central Government an annual report on the appointments and promotions made by it during the previous recruitment year. Clause 16 provides for the preparation and laying of an annual report on the working of the Act before each House of Parliament. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees one hundred crore from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The matters in respect of which rules may be made are matters of procedure and detail and since it is not possible to incorporate the same in the Bill, the delegation of legislative power is of a normal character.

## BILL NO. 76 OF 2004

*A Bill further to amend the Forest (Conservation) Act, 1980.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Forest (Conservation) Amendment Act, 2004.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

69 of 1980

2. After section 3B of the Forest (Conservation) Act, 1980, the following section shall be inserted, namely:—

Insertion  
of new  
section 3C.

“3C. Notwithstanding anything contained in sections 2 and 3, when a forest land or any part thereof is required for any work relating or ancillary to mining, construction of roads to give connectivity to important places or construction of water tanks in rural areas or laying of pipelines for sewer/drinking water connections or erection of electric poles for transmission and distribution of electricity or laying telecommunication lines or any other developmental schemes, the clearance for the

Clearance for  
deforestation  
for  
developmental  
schemes.

deforestation may be given by the District Collector in whose jurisdiction the forest area falls in consultation with the Member of Parliament representing the area:

Provided that a list of all such cases of deforestation cleared under the provision of this section shall be furnished to the Union Ministry of Environment and Forests for information and record at the end of the year.”

## STATEMENT OF OBJECTS AND REASONS

The Forest (Conservation) Act, 1980 has put some restrictions on the de-reservation of forests or use of forest land for non-forest purposes. The explanation below section 2 of the aforesaid Act, however, makes some exception and permits the use of forest land for certain purposes like establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipe-line or other like purposes. But there is no provision in the Act to cover utility services like construction of public roads, laying of sewer line, construction of water tanks, construction of electric poles for transmission and distribution of electric supply and laying telephone lines, etc. All such proposals have to be referred to the Central Government for approval.

Under section 3 of the Act, the approval in such cases has to be accorded by the Central Government on the advice of a Committee to be constituted for the purpose. This causes undue delay in the clearance of projects coming from various parts of the country which hampers the development of the region. It is, therefore, proposed to amend the Act and make a provision that the proposal for clearance of forest land for some specified utility services can be cleared by the District Collector concerned in consultation with the Member of Parliament representing that area. This will facilitate quick implementation of development projects particularly in the backward regions.

Hence this Bill.

NEW DELHI;  
August 24, 2004

S. P. Y. REDDY.

## BILL NO. 85 OF 2004

*A Bill further to amend the Representation of the People Act, 1951.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title and  
commence-  
ment.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2004.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of  
new section  
for section 8.

2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), for section 8, the following section shall be substituted, namely:—

Disqualification  
on framing of  
charges and on  
conviction.

"8. (1) Any person against whom charges have been framed by a Court of competent jurisdiction for any offence punishable with imprisonment for a term of not less than two years shall be disqualified till he is discharged of the offence by the Court.

(2) Any person convicted of any offence punishable with imprisonment for a term of six months or more but not exceeding two years shall be disqualified for a period of six years from the date of his release.

(3) Any person convicted for any offence punishable with imprisonment for a term of not less than two years by a Court of competent jurisdiction shall be disqualified from the date of such conviction:

Provided that such person shall not be so disqualified, until the period of an appeal or application for revision has lapsed or an appeal or application for revision filed by such person has been decided by the Court against him.

(4) Any person who furnishes false information or conceals any information which he is required to furnish under this Act shall be disqualified.

(5) Notwithstanding anything contained in sub-sections (1), (2), (3) and (4), a disqualification under either of the sub-sections shall not, in case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal, or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court."

3. In the principal Act, in section 33A, in sub-section (1), in clause (ii) the words "[other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8]" shall be omitted.

Amendment of  
section 33A.

## STATEMENT OF OBJECTS AND REASONS

In the recent elections, many candidates with criminal background contested election. The entry of criminals in politics is a matter of great concern. Such a trend does not only weaken the democratic set up of the country but also pollutes the political environment. These persons contest election only on the basis of their money and muscle power. They can go to any extent to win the election. If this trend goes unchecked people will start losing faith in democracy. In order to prevent the persons with criminal background to contest elections it is necessary to amend the Election Laws. There is also need to make stringent provision for concealing or furnishing false information by the candidates about their criminal record or cases pending in the court against them at the time of filing of nomination for election.

NEW DELHI;  
August 26, 2004

SURESH CHANDEL.



## BILL NO. 35 OF 2004

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2004.

Short title, and  
commencement.

(2) This shall come into force at once.

2. In article 164 of the Constitution, in clause (1A), after the existing provisos, the following proviso shall be added, namely:—

Amendment  
of article 164.

"Provided further that nothing in this article shall apply to the State of Nagaland."

## STATEMENT OF OBJECTS AND REASONS

The Constitution (Ninety-first Amendment) Act, 2003, *inter alia* requires the States through an amendment to article 164 to limit the number of members in the Council of Ministers to 15 per cent. of total number of the Legislative Assembly of the State concerned, subject to a minimum of 12 Ministers. The President of India had issued a notification on 7 January, 2004 in this regard. Accordingly, this restriction has come into force with effect from 7 July, 2004. This has resulted in severe hardship to the task of carrying out governance in the smaller States, in the North-Eastern States which are totally underdeveloped. The State of Nagaland, which has 16 major tribes and several minor tribes, has to accommodate the aspirations of all the tribal groups who desire participation in governance. The Naga political, social and cultural structure is a unique one and the Constitution of India has accorded a very special place to Nagaland through article 371-A. The inclusion of Nagaland in the sweep of article 164(1A) is being perceived there as an infringement on the special position of Nagas in India. The Nagaland Legislative Assembly duly passed a resolution against the inclusion of Nagaland in the then impending amendment of article 164 in the Constitution way back on 18 December, 2003. Since then, delegations led by the Chief Minister, Speaker and other Ministers of Nagaland presented several representations highlighting the need for exempting Nagaland from the application of article 164(1A) with a view to maintaining the *status quo* on peace and tribal cohesion in the State. Under article 370 of the Constitution, Jammu and Kashmir stands exempted from the application of article 164(1A). This Bill seeks to exempt Nagaland from the application of article 164(1A) in view of the special status of Nagaland under article 371-A.

NEW DELHI;  
June 28, 2004

W. WANGYUH KONYAK.

## BILL NO. 86 OF 2004

*A Bill further to amend the Delimitation Act, 2002.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delimitation (Amendment) Act, 2004.

Short title and  
commencement.

(2) It shall be deemed to have come into force with effect from the 3rd June, 2002.

33 of 2002

2. In section 2 of the Delimitation Act, 2002, in clause (f), for the words "the State of Jammu and Kashmir", the words "the States of Jammu and Kashmir and Nagaland" shall be substituted.

Amendment  
of section 2.

## STATEMENT OF OBJECTS AND REASONS

The Delimitation Act, 2002 was enacted with a view to readjusting the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, the division of each State and each Union territory having a Legislative Assembly into territorial constituencies for the purpose of elections to the House of the People and Legislative Assemblies of the States and Union territories on the basis of the census held in the year 1991. The said Act, however, maintains *status quo* on the number of constituencies in a State allocated for the Lok Sabha and the Legislative Assembly of that State.

The Act exempts the State of Jammu and Kashmir from its purview in view of article 370 of the Constitution and the separate Constitution of Jammu and Kashmir. The State of Nagaland also enjoys a special status in view of article 371A of the Constitution. The Ninth Nagaland Legislative Assembly, in a resolution adopted on the 19th March, 1999 appealed to the Union Government to increase the seats in the State Legislative Assembly from 60 to 80, the seats in Lok Sabha from 1 to 3 and the seats in Rajya Sabha from 1 to 2 in respect of the State of Nagaland. On the 18th December, 2003, the Tenth Nagaland Legislative Assembly adopted another resolution urging upon the Union Government to exempt the State of Nagaland from the purview of Delimitation Act, 2002 and reiterated its earlier stand. The Chief Minister of Nagaland and the Associate Members in the Delimitation Commission from the State of Nagaland have expressed their concern about the imperative of keeping the State of Nagaland out of the purview of the Delimitation Act, 2002. It was clearly communicated to the Union Government that the delimitation exercise will affect tribal cohesion, alter customary territorial boundaries and intercede with the rights to conservation of traditional habitats of sixteen major tribes and double the number of sub-tribes spread into diverse dialectical groups. The delimitation exercise is bound to upset the social, cultural and ethnic poise amongst the various tribes in Nagaland, wherein these basic fundamental ways to life of Nagaland are expressly incorporated under article 371A of the Constitution of this great country. Any move by this august House to destroy the constitutional provision which the people of Nagaland holds so dearly will create unrest and more conflict, thus opening another area of conflict especially when the peace talks for resolving the Naga Political Issue are at crucial stage.

This Bill, therefore, seeks to exempt the State of Nagaland from the purview of the Delimitation Act, 2002 thereby to secure absolute peace and tribal coexistence in the State.

NEW DELHI;  
August 18, 2004

W. WANGYUH KONYAK.

G. C. MALHOTRA,  
*Secretary-General.*